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After posing the theoretical question of the state's power to conscript its citizens for military purposes, this secondary-school unit examines, in selected periods of American history, cases of citizens who have objected to conscription. The student is invited to see the changing bases of conscientious objection, and to consider the choice between conscientious objection and conscientious participation. (Author)

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CONSCIENCE AND THE MILITARY OBLIGATION OF THE CITIZEN: A PROBLEM IN HISTORY AND ETHICS

Teacher and Student Manuals

(Public Domain Edition)

Lawrence Minear

Committee on the Study of History
Amherst, Massachusetts

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EXPERIMENTAL MATERIAL
SUBJECT TO REVISION
PUBLIC DOMAIN EDITION

TEACHER'S MANUAL

CONSCIENCE AND THE MILITARY OBLIGATION OF THE CITIZEN: A PROBLEM IN HISTORY AND ETHICS

Lawrence Minear
New Trier High School
Winnetka, Illinois

This material has been produced
by the
Committee on the Study of History, Amherst, Massachusetts
under contract with the U. S. Office of Education
as Cooperative Research Project #H-168.

This unit was designed to raise with students the ethical questions involved in compulsory military service within the historical context of the American past. The goal is to lead students to judgments which are both historically informed and personally valid.

In doing this, the unit itself neither espouses nor encourages a particular viewpoint. It is not designed to produce conscientious objectors, nor, for that matter, conscientious participants. Inasmuch as it focusses on the conscientious objector and beyond him on larger questions about the relation of the individual to the state, the unit does "make a case" for the objector. Precisely speaking, however, the case is for toleration of dissent rather than for acceptance of the pacifist creed. The student is free to emerge an objector or a participant, as long as the choice is a conscientious one.

The structure of the unit is as follows: Section I raises in theoretical terms the question of whether the state may extract military service from each citizen; Section II examines the treatment of citizens in the past who have denied the state that right; Section III reviews the changing nature of the laws about conscientious objectors and of conscience itself.

The materials should be used (arranged, deleted, expanded, etc.) as the teacher sees fit. The suggestions which follow are meant not to tie the teacher's hands but rather to explore some of the possibilities which emerged during the preparation of the unit. The unit was planned with ten days readings and discussions in mind, with two, three and five days allotted for Sections I, II, and III, respectively. But even this should be varied according to the interests of the students and the teacher. Whatever use of materials and allotment of time is finally decided upon, the teacher might well skim the documents and read the teacher's manual before the initial assignments are made.

SECTION I

THE RIGHTS AND RESPONSIBILITIES OF THE CITIZEN

This section raises a basic question and explores its implications. The question is: does a democratic state have the right to compel military service of its citizens? The pro's and con's advanced in the congressional debate might form the basis of a discussion on the limits, or the lack of limits, of the state's powers over the individual. Does citizenship imply willingness to obey all the demands of the state, or does the citizen legitimately reserve the right to pick and choose which demands he will fulfill?

The Baldwin case is included to dramatize the conflict between conscience and the state. Note that his objection is not to war itself (although he objects to that elsewhere), but rather to being forced by the state to violate his conscience, quite irrespective of the particular act which embodies that violation. The question he poses for the student is whether the democratic state which is allowed to demand total obedience does not soon become totalitarian. If the first day's discussion airs this question of political theory, the following discussions will rest on a broader base than simply the specific grievances of the conscientious objector to war.

Part B. of Section I explores the implications of Baldwin's position: What if nobody were willing to fight? What is everybody were liable to fight? The first question is answered, obliquely by the selections, which suggest that if nobody were willing to fight, we shouldn't declare war. One might ask a class what would happen if 15% or 50%, or 95% of a nation were Roger Baldwins. The pacifist would say: the more Baldwins the better, for then the United States could disarm unilaterally (cf. Document 6, Part III B). A potential invader would be reluctant to counter world opinion by invading, and would have to face non-violent resistance of the variety practiced by Norway against the German occupation in World War II. A less radical and more widely held answer to the question of "too many Baldwins" is that by abolishing the draft and upgrading the prestige and the pay of the armed forces, enough persons would come forward to volunteer their services. In this connection it is noteworthy that only in the Indian, Mexican, and Spanish-American Wars has America been able to rely on volunteers. Conscription has been found necessary in all of the major wars, including the Revolution and the War of 1812, patriots and War Hawks to the contrary notwithstanding. The question remains: why not a volunteer army? If that is impossible, why declare war?

The second problem in Part B is that of establishing a democratic exemption system. Here each student, or the class as a whole, might devise the best possible system. Once again, the curcial question is not that of the conscientious objector as such. It might be far more engaging to ask, for example, whether in an age of pushbutton warfare, feminine fingers might not be equally adept at pushing the buttons. Why not follow Israel's example and conscript girls as well as boys? A discussion along these lines might also serve to engage the attention of normally conscription-free females. Other commonly held assumptions about who should be exempted are called into question by the congressional debate. As suggestions for various exemptions are presented, one might ask whether the criterior for deferment is one of principle (e.g., promoting the national welfare) or expediency (high school dropouts are unemployed and unemployable anyway). After exhausting the various suggested exemptions, one might return to the question of why, if Congress has so much discretion, should it be so demanding of Roger Baldwin?

Several magazine articles review our present exemption practice. David Holmes, Jr., in "Does the Draft Play Favorites?", which appeared in The Nation, September, 1961 analyzes the effects of exemptions on the teenage population, raising questions reminiscent of the Civil War Congressional debate. Jack Raymond in the New York Times Magazine of January 2, 1966, argues that "The Draft is Unfair" in an article of that title. On the larger issue of the abolition of the draft altogether, Hanson Baldwin's "Should We End the Draft?" in the New York Times Magazine, September 27, 1964, provides a balanced treatment. An article by the author of the present unit, scheduled to appear in Theology Today in April, 1966, makes a case, based on the materials which follow, for the recognition of conscientious objectors to particular wars.

Another intriguing line of discussion might be to ask: who fights our wars today? Does the poor man in New York City during the Civil War who was unable to pay the necessary $300.00 have a counterpart in the highschool dropout or the non college-bound student of today? The $300.00 fee, incidentally, was used by the government to hire a substitute. The only other option for the person not physically or mentally unfit was to hire his own substitute. In 1965, has the criterion become brains rather than money--or, given the high entrance fee into the draft-free land of higher education, is it not perhaps still money? Several recent studies indicate the widespread feeling of college students that "education" is the sophisticated way to dodge the draft.

As for the amount of time to be spend on Section I, about two days out of a total of ten for the entire unit would seem to be in order. One day might well be spent on Part A and a second on Part B. If the questions raised by these parts seem more intriguing than those in Sections II,or III, the teacher should feel free to linger a bit here, even though the materials in Sections II and III are, by comparison, somewhat more complicated and time-consuming.

SECTION II

THE TREATMENT OF OBJECTORS TO CONSCRIPTION

This section dramatizes the treatment meted out to objectors at various times in American history. It also suggests the kinds of objectors who have been involved .

While colonial laws and customs varied from colony to colony, the Massachusetts law and the Rhode Island custom described in Part A deserve to stand as representative of pre-civil war practices in general. They emphasize that only Quakers were objectors during this early period and that pressures brought to bear were local rather than national in nature.

The Civil War documents suggest that by the nineteenth century others than Quakers objected and that their treatment became a matter of national policy and practice. At this point in the unit, the specific churches whose members were objectors may seem unimportant to teacher and students alike, yet as the kinds of objectors become increasingly varied in Parts B and C, it is valuable to have established the fact that objectors before and during the Civil War were almost invariably members of the "Peace Churches."

Although a detailed discussion of the beliefs of these religious pacifists must wait until Section III, perhaps a general word about these churches would be helpful. All three have European roots and pacifist creeds. The Society of Friends, or Quakers, believe in an "inner light" or conscience implanted in every man which responds to reason rather than force. Followers of George Fox in seventeenth century England, they settled predominantly in Pennsylvania, a colony they set up according to Quaker principles. Large numbers lived during the eighteenth century in New Jersey, Rhode Island, and North Carolina. They were severely persecuted in the Puritan colonies. The Mennonites were followers of a Dutchman named Menno Simons, whose cardinal belief was unswerving obedience to the injunctions of Jesus' Sermon on the Mount. Fleeing conscription in Europe, many of them settled in Pennsylvania during the late sixteen hundreds, in the Northwest Territory during the seventeen hundreds, and in the farming areas of the Middle West during the eighteen hundreds. The Church of the Brethren also called Dunkers, was founded in the early seventeen hundreds in Germany, from which its members emigrated to settle in Western Pennsylvania and the Shenandoah Valley of Virginia. They too patterned their lives after the teachings of Jesus, but were somewhat less rigorous than the Mennonites in construing the injunctions of the Sermon on the Mount.

In addition to the three questions asked in the student's introduction (who the objectors were, how they were treated, and what alternatives were provided for them), several larger questions are raised by these early religious objectors. One concerns the problem of ends and means, which Lincoln put as follows: "The Friends . . . have had . . . a very great trial. On principle and faith, opposed to both war and oppression, they can only practically oppose oppression by war."[1] Should the Quakers use war, which they detest, to abolish slavery, which they abhor equally? Or, as the problem emerged during the Revolution, should they, against their better judgment, support war and disobedience to the established government in the interests of "liberty and justice"? Similarly, one might ask whether America should use subversion to fight subversion. Or, on the domestic scene, should the tapping of phones, hallmark of a police state, be legalized in the interest of apprehending criminals? See Section III, Part B, 7 for a discussion of the ends-means question.

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[1] Edward Needles Wright, Conscientious Objectors in the Civil War (A.S. Barnes and Co., New York, 1961), 123.

The materials in Part A would seem to justify a day's discussion.

It is hoped that the materials in Part B relating to objectors in World War I are not so numerous and so varied as to obscure the following basic themes: in World War I, objectors are from a wider variety of religions, and from no religions at all; their treatment, which was harsh, represented national policy; the constitutionality of conscription, discussed earlier in Section I-A, was affirmed by the Supreme Court; as in the Civil War, alternate service was possible, though begun late in the war and unsatisfactory to many objectors. The answering of the three questions posed by the introduction will probably illuminate these themes. Above and beyond them, however, certain "larger questions" come to mind.

One of special interest dealing with the responsibility for the treatment objectors received. To what extent is an administration responsible for educating, as well as for responding to, the public? The documents seem to place the burden on public opinion as shaped by certain organized pressure groups. Is this to say that the president and his administration were innocent? Do not the statements by Wilson and his cabinet fan the fires of intolerance in such a way as to implicate him in the sufferings of the prisoners? If, as Baker said, the administration did all that public opinion would bear, did it do enough?

Perhaps a lecture by the teacher might illuminate the hysteria reflected in the documents: the heavily immigrant backgrounds of the country in 1914, the presidential admonitions to neutrality in thought and deed from 1914-1917, and then the reverse demand for total commitment and allegiance after April of 1917. Good material on this subject is available in Arthur Link's The American Epoch and John Roche's The Quest for the Dream.

Either with or without this background a second question might be discussed: Whatever the presidential guilt or innocence in the treatment of objectors, to what extent was the ordinary citizen in 1917 himself responsible? Does what happens inside his jails involve him? What is the relation between the waterhose inside the jail and the lynching outside? In a more recent vein, is the ordinary German citizen responsible for what happened inside Hitler's camps? Is the ordinary citizen responsible for unauthorized use of the policeman's night stick? Is the average American implicated when, in the interests of protecting him, his government practices capital punishment?

The teacher might wish to be alerted to one problem of emphasis reflected in the selections. The inclusion in Part B of all kinds of objectors, religious and non-religious, may lead the student to assume that no major groups opposed the Revolution and the Civil War on political grounds. There were, of course, the Loyalists in the one and the Copperheads in the other, with the latter in fact fanning the unrest that erupted in the Draft Riots of 1863. Futher, Lincoln, like Wilson, suspended certain civil liberties for the duration of the war. Granting all of this, however, the impression that political objectors prior to World War I were non-existant has been allowed to stand since the uproar they caused was greater in World War I, as were the repressive measures taken against them. It should be noted, too, that in the eyes of the law political objectors were not "conscientious." They are included here so that in Section III, when conscience is defined, they may be excluded there. Before then, the question of "what is a conscientious objector" as such is not examined.

The material in Part B may be at once more unmanageable and more suggestive than that in Part A. If more than one day on Part B seems in order, the student might be assigned a short paper either on one of the larger questions suggested above, or on an unfinished discussion question.

The materials in Part C, which deals with World War II, are once again varied, but encourage the asking of the same questions as in Parts A and B. The conclusions about the various kinds of objectors and their increasingly considerate treatment seem clear enough. Perhaps of more interest are the alternatives available and the historical developments flowing from them by way of pioneering work in medicine, mental health, and agronomy. The contrast is so marked with World War I that it is easy to overlook the charge that, despite the humane treatment and the productive work, objectors were still "second class citizens." One might ask whether the CPS visitor is correct in claiming that objectors were "penalized on grounds of conscience." If so, is she also correct in viewing this as a violation of an ideal which has shaped our country since "the landing of the Pilgrims"? Is there in fact an American tradition of equal treatment under the law, regardless of one's personal opinions? One recalls in this connection the recent Supreme Court verdict that it is unconstitutional to bar a man from office holding in a labor union because of communist beliefs. Harsher proposals than that were advanced, and defeated, toward the end of World War II: that objectors should be barred from voting, office-holding, and owning real estate. The basic question is: should punitive measures be imposed on dissenting citizens, even to the point of abridging certain rights of citizenship? The congressional debate is helpful here in airing the fear that not to do so would be to subsidize dissent. Judging from the opinion polls presented, was that fear well founded? Would public opinion have tolerated "first class citizenship", if that is what was lacking? Of what does such citizenship consist? Were the objectors justified in charging that anything short of total exemption--even alternate service--deprived them of first class citizenship?

Quite apart from the matter of whether or not public opinion would have tolerated more humane treatment of objectors, should government policy toward minority groups be based on public opinion? What does the World War I experience indicate about public opinion, government policy, and minority rights? What constitutional safeguards are there against a "tyranny of the majority"?

The materials in Part C seem to require at least one day. A second day might well be spent drawing comparative generalizations from our three centuries of experience treating objectors: "Have we progressed"? "What guidelines should determine our policy toward those who refuse to fight in Vietnam?" Time might be given to constructing a poll sampling parental or student attitudes toward objectors. A lecture might explore some of the reasons why political opposition to World War II was minimal compared with that in World War I: for example, the difference between Pearl Harbor and the Zimmerman Note, or between the effects of the wave of newcomers in the decades before World War I, and of immigrant restriction during the 1920's and 1930's. Oral reports might give further details on the CPS work from the titles listed in the bibliography or compare Hitler's medical experiments on his prisoners (see Shirer's Rise and Fall of the Third Reich) with those performed on American volunteers. Interesting comparisons might well be drawn with the treatment of objectors in other countries, notably England, Canada, and Germany.

Several recent examples of objection to service in Vietnam might be added by the teacher to the materials as they now stand: an army doctor who refused to proceed from Okinawa to Vietnam as ordered; a G.I. who carried on a protracted hunger strike in Fort Monmouth; and young people who have torn up their draft cards, an action which has led to the passage of new legislation forbidding such conduct. (See the current Congressional Record and The New York Times Index for particulars.) For a readable and illuminating description of the way the Selective Service System works, see Fred J. Cook's "The Draft Boards Escalate" in The New York Times Magazine, September 12, 1965, 54ff.

SECTION III

THE MEANING OF CONSCIENCE

This section examines the nature of conscience historically by quoting relevant sections of previous laws and the writings of objectors, and contemporarily, by discussing a recent case on the subject. The major purposes here, reflected in the arrangement of the materials, are: (A) to chart the changing nature of the law; (B) to illustrate the variety of consciences in American history and society; and (C) to show the response of the law to historical and social change.

Part A makes clear the pattern of change over time. In Part B, the groups of objectors which the student might suggest include, among others, the religious, the humanitarian, and the political. By the end of World War II, the laws still made provision only for the religious objectors. From this deduction which the student might be led to make, the conclusion would seem to follow that the legal understanding of conscience has not kept pace with the development of conscience in society. This sets the stage for Part C, in which a new working legal definition of conscience is hammered out by the courts. Therefore it is crucial that the contrast be established in class between the religious criteria of the laws and the non-religious basis of the objections. Both show signs of change over time, but the conscience seems to out-run the laws.

The Seeger cases in Part C fits naturally into this context. One of its values is to illustrate the procedures which establish the sincerity or insincerity of the registrant not granted objector status by his local board. Of greater value, however, are the verdicts themselves. While each is significant in its own right, together they form an illuminating illustration of the court system in action. Since they are complex and at times technical in language, perhaps some clarification here would be of use.

Seeger loses his case in the District Court, which rejects his contention that the 1948 statute establishes religion as a criterior for exemption, religion defined as "belief in a Supreme Being." Judge Levet finds that Congress may exempt whomever it wishes and that its 1948 exemptions do not establish a religion, such as a state church. There is a subtle but all-important distinction here between establishing religion and establishing a religion. Note, too, that the judge's reasoning about the demands of national security echoes the Congressional debates in Section I-A. At the next stage of the case, the Appeals Court rules in Seeger's favor, accepting Seeger's contention that there are "religious beliefs" which are not related to a Supreme Being, as required by the 1948 law. Congress' narrow definition of religion does establish religion--Supreme Being religion. Congress' right to conscript men for the armed forces does not include the right while so doing to violate a citizen's "religion," now broadly defined. The Abington and Zorach decisions are the subject of another unit in this series, God and the Government, by Allan Guttmann. For present purposes suffice it to say that they illustrate the same historical forces at work in America to broaden "religion" from individual Protestant churches to encompass Christian churches (including Catholics), theistic religious organizations (including Jews), and "finally" secular humanists (including agnostics). Note that Seeger is an agnostic rather than an atheist: the quotation marks he places around "religious" and his family background distinguish him from the full-fledged atheist, who has yet to challenge the constitutionality of exemptions based on "religious" training and belief. One possible concluding assignment would be to argue, or judge, the atheist objector who accuses the government of "establishment of religion."

Justice Clark's verdict for the Supreme Court sustains the reasoning of the Appeals Court decision. Yet the criterion of conscience which it elaborates has caused considerable confusion. What precisely is included in "a sincere and meaningful belief" which plays a role in thelife of its possessor "parallel to" the beliefs of other exemptees? The following appraisal seems to represent the general upshot of the verdict.[2]

> /The selection indicates that the content of a belief is not as important as the difference it makes in a person's life. If a belief causes one to refuse to kill another it is just as good for the purposes of the Selective Service Act as a deep religious belief based on the Good Book./

But other observers are careful to point out that the verdict leaves at least one question unanswered:

> "If and when the case of an atheistic conscientious objector comes /up/. . ., the ultimate decision may well have to be that portions of the Selective Service Act are unconstitutional because they favor religious objectors over non-religious objectors and therefore violate the First Amendment."[3]

To be led via a discussion to some of these complications arising from the court's opinion might be instructive to the student in suggesting the way in which the law grows as its ambiguities are dealt with only to reappear in new forms. Additional discussion of the case is available in the national press at the time of the verdicts.

However complicated the Seeger case, the main purpose of all three opinions, as they relate to Section III as a whole, is to spotlight the ongoing redefinition of the nature of conscience. In this connection, the discussion might well return from Part C to the themes of Parts A and B. Could it be said, for example, that until 1965 no objector to war on humanitarian grounds was credited with having a conscience? Could it still be said that whoever believes conscientiously that our policy in Vietnam is wrong is not credited with having a conscience? Should he be excused from military service there, or altogether?

No concluding assignments are suggested in the student's manual in order to leave the teacher maximum leeway to end the unit as he sees fit. Perhaps a paper encouraging the student to spell out the historical and ethical conclusions arrived at from the study of the materials would be in order. He might be asked, for example, to propose a law which in his eyes does justice to the conscientious objector. He might prepare testimony for a congressional committee studying his proposal which makes clear the historical and ethical bases for his suggestions.

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[2] Edgar Metzler, The Reporter, April 1965, 2.

[3] Robert B. Meyers, Ibid., 3.

While this topic seems faithful to the unit's materials, individual classes might have found questions in other areas of greater interest. One of the following quotations might serve as a core idea for students' concluding essays. [4, 5, 6, 7, 8, 9, 10, 11, 12] Whatever final assignment is decided upon, a project written outside of class rather than a test taken during a class period seems to lend itself to the kind of thinking encouraged by the unit.

> /All the quotations relate to attitudes toward the conscientious objector, individual liberty, dissent and war./

As for the allotment of time on Section III, Parts A and B seem manageable in a single day. Part C deserves at least two days, perhaps reading the verdict of the District Court on one day and those of the Appellate and Supreme Courts on the following day. The concluding assignment seems to warrant at least one day.

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[4] Spinoza, citation unknown.

[5] Rufus Jones, Record of a Quaker Conscience, Introduction.

[6] John Stuart Mill, "On Liberty," as quoted in Donald Johnson, The Challenge to American Freedom (University of Kentucky Press, Lexington, 1963), vii.

[7] Stewart Alsop, Nashville Tennessean, (August 3, 1955).

[8] Exparte Milligan, 4 Wall., 142.

[9] Unattributed as quoted in Jerome Bruner, Mandate From the People (Duell, Sloan and Pearce, New York, 1944), 14.

[10] Bertrand Russell as quoted in Robert and Barbara Donington, The Citizen Faces War (V. Gollancz, Ltd., London, 1936), 40.

[11] Editorial, "Conscientious Objectors," Saturday Evening Post, (August 15, 1942), 104.

[12] A Resolution by The Social Action Committee of the Yale Divinity School, November 18, 1965.

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EXPERIMENTAL MATERIAL
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STUDENT'S MANUAL

CONSCIENCE AND THE MILITARY OBLIGATION OF THE CITIZEN: A PROBLEM IN HISTORY AND ETHICS

Lawrence Minear
New Trier High School
Winnetka, Illinois

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by the
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NOTE TO THE PUBLIC DOMAIN EDITION

This unit was prepared by the Committee on the Study of History, Amherst College, under contract with the United States Office of Education. It is one of a number of units prepared by the Amherst Project, and was designed to be used either in series with other units from the Project or independently, in conjunction with other materials. While the units were geared initially for college-preparatory students at the high school level, experiments with them by the Amherst Project suggest the adaptability of many of them, either wholly or in part, for a considerable range of age and ability levels, as well as in a number of different kinds of courses.

The units have been used experimentally in selected schools throughout the country, in a wide range of teaching/learning situations. The results of those experiments will be incorporated in the Final Report of the Project on Cooperative Research grant H-168, which will be distributed through ERIC.

Except in one respect, the unit reproduced here is the same as the experimental unit prepared and tried out by the Project. The single exception is the removal of excerpted articles which originally appeared elsewhere and are under copyright. While the Project received special permission from authors and publishers to use these materials in its experimental edition, the original copyright remains in force, and the Project cannot put such materials in the public domain. They have been replaced in the present edition by bracketed summaries, and full bibliographical references have been included in order that the reader may find the material in the original.

This unit was initially prepared in the summer of 1965.

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SECTION I

THE RIGHTS AND RESPONSIBILITIES OF THE CITIZEN

Citizenship is a two way street. The citizen performs certain duties, such as paying taxes, and is rewarded by certain benefits, such as police and fire protection. The citizen abides by certain rules, such as traffic laws, and enjoys in return the comforts of a well-ordered society, complicated by few traffic jams. But how far may the government go in making demands on the citizen? May the state demand not only that the citizen obey the speed limit but also that he fight, kill, and perhaps even die for his country? Does a government have a right to compel this much from its citizens?

A. Conscription vs. Conscience

Should a citizen be forced to fight for his country? In 1917, after the United States had declared war on Germany, the Wilson administration sent a bill to Congress authorizing military conscription. Excerpts from the subsequent congressional debate, which despite the critical emergency lasted four days and four nights, are printed below. On the basis of the arguments presented, would you vote Yes or No on the draft bill?

1. The Case for Conscription.[1]

> Mr. Sherley [of Kentucky]: [I]t may not be amiss if I undertake to state what I conceive to be the obligation of both the Nation and of the citizen. A government must, as a primary factor, consider its own preservation. It must do those things necessary to win a war in the quickest possible manner, though it should so do them as to place the burden most equitably upon the citizenship of the country.

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[1] Congressional Record, 65th Con., 1st Sess., 1071-1557 passim.

The citizen, on the other hand, owes as a duty to give in any degree of property, of comfort, aye, of life, when the Nation may ask. It is not volitional[2] with him. That is the basic fact that should underlie this debate. The citizen has not a right to volunteer. He has not a right to refuse to serve. He has a duty to serve as and how and when his Nation commands [applause], and any other citizenship is a citizenship that lacks the very essence of what goes to make the sovereignty of a nation.

No amount of argument will ever convince me that a nation can last that does not have the right, and, when the occasion arises, exercises the right, to compel of every citizen the doing of those things that may be necessary for the preservation of the national life. [Applause.] . . .

I repeat that a citizen has no right, moral or otherwise, to refuse to give of his life, if need be, when his Nation calls. Any man who is not willing to accept that position has no right to live within a country and accept the benefits that come from the Government that protects him. I am not nearly so much concerned in this hour touching the rights of individual citizens as I am touching the duties of the citizenship of America. [Applause.]

Mr. Bechkam [of Missouri]: We hear too much about privileges and too little about responsibilities.

Liberty that takes into consideration only the privileges and not the duties of the citizen can not endure and is not the kind of liberty our forefathers purchased for us with thier blood. There is no country under God's shining sun whose people owe more to their Government than do the American people. We enjoy liberties, privileges, and opportunities not equalled by those of any other people on earth. If any able-bodied beneficiary of such blessings is unwilling to fight for the country that gives them to him when that country needs his services and he has no valid excuse not to do so, then I say he should be compelled, if necessary, to recognize his obligations and give his services in the defense of the land that nourishes and protects him. . . .

Mr. Myers [of Montana]: The opponents of this bill seem to proceed upon the theory that the citizens of a country owe their country no extraordinary duties in time of war. In extraordinary times, when the life of their country is at stake, when it is waging a war for its existence, they seem to think that it is for each and every one of the 100,000,000 people of this country to say, just how they will serve their country in time of war, or whether they will serve it at all or not.

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[2] A matter of choice.

I will tell you my idea of a patriotic citizen, a good citizen. I will give you my idea of loyalty. My idea is that the man who, at the outbreak of war, says to his country as the prophet of old said, "Here I am; all that I am; my mind, body, intellect, heart, and soul are at the disposal of my country. I offer myself on the altar of my country. My life, if necessary; my services, my talents, my labor, my ability (if I have any), all in all, all that I am, all that I hope to be, I lay upon the altar of my country. Here I am; take me; put me where you will. If you choose to send me to the bloodiest grave of the bloodiest battle field of the bloodiest war that was ever waged, there I will be when the time comes. If you choose to send me to face sheets of fire and flame, and shot and shell on battle fields raked with torrents of destruction, there I will be; if you choose to put me in the less heroic and less sentimental position of a mechanic, sharpening tools, making instruments of war; if you choose to have me work in a munitions factory, work on a farm, work at producing foodstuffs -- if you choose to send me there, there I will go. I have no individual ambition to gratify; I have no individual desire to place above the welfare of my country. My country comes first with me in time of war; my country first, my country last, my country all the time."

That is my idea of a good citizen and a patriot -- a man who is willing to serve his country in any capacity in whith he may be told to serve it; who is ready to shoulder the musket or follow the plow; who is ready to obey the orders of the supreme power which must exist to conduct any war successfully.

2. The Case Against Conscription.[3]

Mr. Crosser /of Ohio/: Mr. Chairman and gentlemen of the House, this is the gravest question which has confronted this country in a half century, if not in its whole history. It is proposed to overturn principles which the American people have cherished since the beginning of our Government. . . .

The fundamental principle of American democracy is consent of the governed. The elector is the American sovereign. Government is the expression of the will of the elector. The people are supposed, under our Constitution, to be the creators and government their creation. Sovereign choice lies with the citizen; that is what we mean by the words "freedom" and "democracy." He creates the Government, which we call "self-government." He names the officials who carry out his will, and he fights his country's battles as a sovereign volunteer. That has been the world-famous "American system" since 1776, the system and the fundamental principles studied and revered by liberty-loving people in every enlightened community on the globe.

The proposition to empower the Government to impose universal

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[3] *Ibid*.

> service and levy military conscription is a complete subversion of democratic principles and is opposed to every American tradition. It takes away the sovereign power of choice from the citizen and confiscates his personal freedom on the altar of bureaucracy, with power over the life and liberty of the citizen. The term "sovereign citizen" becomes irony. Sovereignty is transferred from the citizenship to the Government. A military bureaucracy becomes sovereign, and the citizen becomes conscript and subject. . . .
>
> If the principles and traditions taught in our schools and declaimed from the public forum on the Fourth of July are true and right, then the system of military conscription and universal military service advocated on this floor are wrong. . . . I can not bring myself to support a measure that is hostile to every American tradition from 1776 down through 140 years of patriotic memory. I can not vote for a measure which takes from American schools and colleges the boys and young men who are engaged in the study and recitation of the principles and deeds of our forefathers and impress them into forced military service while they are declaiming the glories of self-government. I can not support a measure which empowers Federal military agents to seize citizens who may gather at the next Fourth of July celebration to glorify "consent of the governed" and drag them away as military conscripts. If the gospel which we preach is true, if it voices the soul of America, we as representatives of the American people and trustees of the immunities of the Constitution can not rightfully betray our trust by substituting for it the basic system of Prussian military autocracy[4], which is universal military servitude and military conscript. . . . [Applause.]

3. The Draft Act Challenged.[5]

The draft bill was passed by an overwhelming majority. It was soon challenged, however, by Roger Baldwin, who in this speech to the judge before being sentenced gives his background and the reasons for his action. Weigh his arguments and the judge's verdict against your vote following the congressional debate.

> [Baldwin declares his opposition to conscription and refuses to be drafted. He expresses realization of his imminent punishment and reaffirms his convictions despite this realization.]

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[4] Dictatorship.

[5] Roger Baldwin, The Individual and The State (Privately printed, New York, 1918), 1-13.

4. The Judge's Verdict:

In sentencing Mr. Baldwin, Judge Mayer spoke as follows:[6]

> /The Judge contends that if Baldwin's position were allowed to prevail the Republic could not exist. Since neither the government nor Baldwin can compromise, and since the issue is clearly understood and accepted by both parties, the Judge expresses a feeling of justification in imposing the maximum penalty (one year in the penitentiary) on Baldwin./

B. Preliminary Questions

When the right of the government to exact military service from its citizens is called into question, two problems come immediately to mind: that of too few soldiers and that of too many.

1. The first problem is: If no citizen is obliged to serve, will enough citizens volunteer to serve? How satisfactory is the answer provided in the following excerpts taken from the 1917 Congressional debate on conscription?[7]

> Better for us to depend on volunteer patriots than that we should attempt to conscript patriots. True patriots need no conscription.
>
> Let us have a volunteer army to represent us, so that the real spirit of our country will be shown, that we, the one great democracy in the world, will not . . . in setting up democracy in the world for which we are now fighting, be the first to destroy democracy at home. I want an army of free men; not slaves.

2. Amendments to the United States Constitution have been suggested before each of the last world wars to prevent the creation of an "army of . . . slaves." In 1935 Congressman Ludlow of Indiana introduced such an amend-

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[6] *Ibid*., 14-16.

[7] Addresses of Rep. Roberts of Nevada and Rep. Wise of Georgia, *Congressional Record*, 65th Cong., 1st Sess., 1232, 1211.

ment. It would, he felt, assure sufficient volunteers to fight any war involving the United States. How convincing do you find his arguments?[8]

> Why should we not again take up for serious consideration the question as to whether the people should have a right to express themselves through a referendum on the greatest and most tragic question that can possibly affect them, their homes, and their loved ones? Under my resolution, . . . it is provided --
>
> Except in case of invasion by armed forces, actual or immediately threatened by an approaching military expedition, or attack upon the United States or its territorial possessions, or by any non-American nation against any country in the Western Hemisphere, the people shall have the sole power by a national referendum to declare war or to engage in warfare overseas. Congress, when it deems a national crisis to exist in conformance with this article, shall by concurrent resolution refer the question to the people.
>
> It will be noted that under the resolution the referendum would apply only to proposals to send American boys into war overseas. If the United States or any other country in the Western Hemisphere is attacked or invaded there would be no referendum.
>
> With all my heart I believe in democracy -- the right of the people to rule -- and if this God-given right is vouchsafed to them, as I think it should be, it certainly should be theirs to decide the great and tragic question of reddening the soil of foreign countries with the blood of American boys, as well as the minor and inconsequential things of life. The citizen can now vote for constable, but he has no vote on war. How can I, a Member of Congress, say to my constituent, "You have sense enough and intelligence enough and information enough to vote for me for Congress, but you do not have sense enough and intelligence enough and information enough to vote on the question of sending your boy into the hell of a foreign war"?

3. If the first problem is too few soldiers, the second is too many, for if every citizen were to be conscripted, our army would be unwieldy. If only a limited number of soldiers is needed, however, on what basis should they be selected? How should the 100,000 draftees needed in 1965 be chosen from a manpower pool numbering in the millions? In a democracy a draft should be democratic. Can it be?

Our first national draft came during the Civil War. Earlier -- during colonial days, the Revolution, the War of 1812, the Mexican War, and the various Indian Wars -- the primary responsibility for defense rested with the states. They alone claimed the power to draft, and even they used it sparingly. When the federal government needed troops, it assigned a quota to each state. Yet as General Washington learned during the Revolution, the states did not always oblige. Even when they did, the use of these state militias was restricted. In the War of 1812 andin the Civil War, reluctance of militias to serve outside their state affected battle strategy.

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[8] *Ibid*., 77th Cong., 1st Sess., 1971-2.

During the early part of the Civil War, federal governments in both the North and the South carefully avoided infringing on states rights and refrained from drafting men directly. But as the war dragged on and enlistments lagged, a direct federal draft became imperative. When the two Congresses, North and South drew up draft legislation, the question of whom to exempt was for the first time faced on a national level. Previously, each state had exempted whomever it chose, but now uniform exemptions were needed for all the states. Following is a description of the first drawing of names in New York City under the rules established by the Northern Congress:[9]

> /This is a description of the anti-draft riot in New York City which lasted from a Monday morning to a Thursday evening. The mobs wrecked property and attacked authorities and seemed to be so powerful as to be beyond suppression until outside military aid was brought into the city to help quell them./

4. Why the commotion? An account appearing in the New York World on July 18, 1863, givesthe major reason:

> THE ORIGIN OF THE RIOT. . . .
>
> The riots were a spontaneous outburst of popular passion, primarily at the draft, /and/ next at the $300 clause by which the rich man may exempt himself though the poor man must leave his family and risk his life. . . .

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[9] James Rhodes, A History of the Civil War (Macmillan, New York, 1917), 289-291.

5. Our present system of exemptions has evolved out of the discontent with the 1863 exemptions. Does our current classification scheme as presented below seem fair to all citizens? Keep in mind that persons in Class II are called up only after the supply of those in Class I has been exhausted.[10]

Class I-A: Available for military service.
Class I-A-O: Conscientious objector available for noncombatant military service.
Class I-C: Member of land or naval forces of the United States and registrants separated therefrom under honorable conditions.
Class I-G: Member of the cobelligerent land or naval forces and registrants separated therefrom under honorable conditions.
Class II-A: Man supporting the national health, safety, or interest.
Class II-C: Man deferred by reason of his agricultural occupation or endeavor.
Class II-S: Students pursuing their studies.
Class III-D: Man deferred because induction would cause extreme hardship and privation to a wife, child, or parent with whom he maintains a bona fide family relationship in his home.
Class IV-A: Man 38 years of age deferred by reason of age.
Class IV-B: Official deferred by law and certain registrants in Governement service.
Class IV-C: Neutral aliens requesting relief from liability for training and service, and aliens not acceptable to the armed forces.
Class IV-D: Minister of religion or divinity student.
Class IV-E: Conscientious objector available for, assigned to, or released from work of national importance.
Class IV-F: Physically, mentally, or morally unfit.

6. In evaluating how democratic our present system is, you might find of interest some of the remarks from the Congressional debate of 1863 on the first draft bill.[11]

> I trust that all classes will be subject to the draft.
>
> Let the boys stay at home until their beards grow.

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[10] *United States Government Organization Manual*, 1962-63 (Office of the Federal Register, Washington, D. C.), 472.

[11] *Congressional Globe*, 37th Cong., 3rd Sess., 976-1002, *passim*.

The obligation [to serve one's country as a soldier] is owed by every man who enjoys the benefits of the Government, whether he be a young man or an old man.

It strikes me that a man who is thirty-one or thirty-two or forty years of age owes as much service to his Government as the man of eighteen, nineteen, or twenty.

The man who is married and has a wife and family to protect has additional cause . . . to fight for the maintenance of the institutions which protect him and his family, and will protect the generations which are to come after him.

[To exempt married men] will encourage matrimony.

The moral effect in a neighborhood, among a townspeople, of having a clergyman enrolled with the others . . . and drafted . . . would be excellent.

I should just as soon think of enrolling [and drafting] the women of the land into a military force as the clergy. . .

Those who vote should fight.

I am in favor of including [members of Congress] as I am all other persons.

Why exempt the judges?

It seems to me that the classes of exempts are becoming much too numerous and much too large. Iwould say to all of them, fight, pay [for a substitute] or emigrate.

Why exempt anybody?

SECTION II

THE TREATMENT OF OBJECTORS TO CONSCRIPTION

Through American history there have been those like Roger Baldwin who have challenged the right of the state to compel a citizen to obey laws in violation of his conscience. These people have objected to the state's demand for military service for a number of reasons and have been treated in a number of ways. The present section indicates the various ways in which objectors have been treated, while the following section explores the various reasons why people have opposed military service.

The material is divided into three general parts: the colonial and civil war periods, World War I, and World War II. For each period, try to determine: (1) who the objectors were, (2) how they were treated, and (3) what alternatives were open to them?

A. The Colonial and Civil War Periods

1. A Massachusetts Law of 1757:[1]

> AN ACT TO EXEMPT THE PEOPLE CALLED QUAKERS FROM THE PENALTY
> OF THE LAW FOR NON-ATTENDANCE ON MILITARY MUSTERS.
>
> . . .
>
> Be it enacted by the Governour, Council and House of Representatives,
>
> /Sect. 1./ That such of the inhabitants of this province, as are called Quakers, be henceforth exempted from every penalty here to fore by law imposed, for not attending military musters and that every such penalty or forefiture already incurred by persons of that denomination . . . be wholly remitted . . . .
>
> /Sect. 2./ That every such person, whose body has been taken and imprisoned for such penalty, shall be forwith discharged and set at liberty. . . .

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[1] The Selective Service System, Military Obligation: The American Tradition. Special Monograph No. 1, Volume II, Part 6, in Backgrounds of Selective Service. (Government Printing Office, Washington, 1947), 195-7.

> [Sect. 7.] That . . . for each Quaker who would have been [liable to be drafted] the sum of thirteen pounds six shillings and eightpence shall be added to that town or district's proportion of the next province tax [to be paid solely by the Quaker population].

2. An account of the treatment of a Quaker in Rhode Island in 1777:[2]

> Taken from . . . Paul Greene, by John Wightman, Constable, Warrant issued by the . . . Town Council, signed by the . . . Clerk, Two Cows & four pair of Shoes, for his not having served as a soldier, one month, when draughted.

3. During the entire Civil War period, the "Peace Churches" (the Quakers, the Mennonites, and the Church of the Brethren) petitioned state and federal governments, both north and south, on behalf of their members.

One such petition is described in the following account:[3]

> [In 1863 a delegation of New England Quakers met with Rhode Island officials to express their concern for four young conscientious objectors. The state officials suggested] that we should lay the case before the President of the United States. In accordance with this advice we went to Washington not long after the Battle of Gettysburg. President Lincoln received us kindly, but said he did not see how he could grant our friends exemption from military service, without so far '*letting down the bars*' as to render nugatory [useless] all his efforts to crush the rebellion. Upon being told that we did not look upon it in that light, he said it amounted to that; dwelt much on the difficulties that would attend the exemption of any portion [of the population] which by law was subject to draft; said that if he began, there would be no stopping place; spoke of the difficulties with which he was beset on every hand; of the trouble he was having with the Governor of New York on account of the draft in that state; said he had not time to give attention and thought to these matters; that before one thing was duly considered, another of a totally different character was presented and pressed upon his attention; that anything he might do or say to-day would be in the public papers tomorrow, and be heralded from Maine to Georgia.
>
> At length, however, he said he "should be very unwilling for any truly conscientious person to be made to suffer"; immediately adding, "*but even this must not be repeated*" [to anyone else].

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[2] *Minutes of the Meeting for Sufferings*, I, 67 as quoted in Arthur J. Mekeel, *New England Quakers and Military Service in the American Revolution*.

[3] Ethan Foster, *The Conscript Quakers* (Cambridge, Riverside Press, 1883), 12ff.

He finally asked, "What can we do for you? I don't see what we can do." I replied that our Governor suggested that he might think it would do to release these men on parole; to hold them subject to call. At this he was silent for some time and made no reply to the remark; but I thought it struck him favorably, and that if anything was ultimately done, this course might be pursued.

The President said it would not do to make a special exception in the case of Friends; that there were others who professed to be conscientiously opposed to war. We acknowledged this, and expressed a hope that if any favors were granted, it would be done impartially. I remarked, however, that I nevertheless thought the claims of the Society of Friends stronger than those of any other class, from the fact that they had long since abolished slavery within their own borders; and that if every other of the religious denominations had done the same, we should not have had this war; to which he replied, "You never said a truer thing than that.". . .

[Lincoln then instructed his secretary to take down the names of the delegation and sent them to Secretary of War Stanton, who received them "courteously" but "gave little or no encouragement."

Soon after we entered the War Office, the Secretary of State (William H. Seward) came in and took a seat. He remained silent until our conference with Secretary Stanton was concluded; when Charles Perry . . . turned to him expecting a word of sympathy and encouragement, and remarked that he would perceive why we were there; upon which he suddenly and with much vehemence of manner asked, 'Why don't the Quakers fight?' Charles replied, 'Because they believe it wrong, and cannot do it with a clear conscience.' He reprimanded us severely because we refused to fight. After a little pause, I said, 'Well, if this world were all, perhaps we might take thy advice;' to which he responded, 'The way to get along in the next world is to do your duty in this.' I replied, 'That is what we are trying to do; and now I want to ask thee one question, and I want to answer it; whose prerogative is it to decide what my duty is, thine or mine?' He did not answer the question, became more angry and excited; asked, 'Why, then, don't you pay the commutation?' [the fee to hire a substitute] We told him we could see no difference between the responsibility of doing an act ourselves and that of hiring another to do it for us. On this he sprang from his seat and strided around in a circle of some eight or ten feet across, exclaiming, "Then I'll pay it for you,' and thrusting his hand into his coat pocket, added, 'I'll give you my check!'

Immediately after this exhibition, we took our leave in much sadness, at treatment so opposite to that we had expected from Secretary Seward. . . .

[The delegation left Stanton and Seward to report to Lincoln on how the interview had gone. Despite sympathy from the White House, the four young men were called up and given the choice between camp

> and prison. After choosing the latter, they met an army surgeon in prison who wrote the president in their behalf. Shortly thereafter an order from Washington was received, parolling them until they were called for./
>
> The young men went to their several homes, and continued to pursue their ordinary avocations until the end of the war. No call was ever made for them by the government. . . . This incident provides a striking illustration of the great advance in religious tolerance and freedom which has been made since the early settlement of our country, and a forcible reminder that we of this generation owe much to the unflinching integrity and faithfulness of our early Friends. . . .

4. The attitude of the President and his Secretary of War, which in general reflected the prevailing sentiment in Congress, determined the treatment received by most of the conscientious objectors. What sometimes transpired, however, between the time of induction and action by the White House or the Secretary of War is illustrated in the following account excerpted from the diary of Cyrus Pringle, a Quaker botanist credited with the discovery of more than a thousand new species of plants:[4]

> /Pringle describes the consequences of his refusal to be drafted and to cooperate with military officials. At first there was an attempt to force military duties upon him; then he was tied to stakes and forced to withstand the weather and strain; finally the President decided to free him as a Quaker after a short work period at a military hospital./

5. Cyrus Pringle's experiences were avoided by a few Quakers and many members of the other "Peace Churches" who took the following course of action:[5]

> Since war is contrary to our calling and faith we know of no other way out than to pay the $300.00 prescribed by the law in order to show our patriotic attitude as citizens and supporters of the Union.

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[4] Cyrus Pringle, The Record of a Quaker Conscience (Macmillan, New York, 1918), passim.

[5] Bertha M. H. Shambaugh, Amana, The Community of True Inspiration (State Historical Society of Iowa, Iowa City, 1908), 164, as quoted in Edward N. Wright, Conscientious Objectors in the Civil War (A. S. Barnes & Co., New York, 1961), 173.

In the South, the cost of exemption was $500. Some members of the Peace Churches paid; others did not. Some were forced to flee to the North; others had property confiscated as in colonial days. Some petitioned Jefferson Davis and the Confederate Congress, though with less success than similar petitioners in the North. For neither North nor South are accurate statistics available as to the number of conscientious objectors.

6. Late in the war the Congress in the North passed the following statute directed largely at the "Peace Churches":[6]

> Members of religious denominations, who shall, by oath or affirmation, declare that they are conscientiously opposed to the bearing of arms, and who are prohibited from doing so by the rules and articles of faith and practice of said religious denominations, shall, when drafted into the military service, be considered non-combatants, and shall be assigned by the Secretary of War to duty in hospitals, or to the care of freemen, or shall pay the sum of $300 to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers: Provided, that no person shall be entitled to the benefit of the provisions of this section unless his declaration of conscientious scruples against bearing arms shall be supported by satisfactory evidence that his deportment has been uniformly consistent with such declaration.

B. World War I

The readings in this part describe the treatment of conscientious objectors during World War I. The first seven excerpts pertain to the attitude of the administration. They are followed by four which indicate the feelings of the general public. The four subsequent documents outline the way in which the courts responded. The following ten selections deal with the manner in which objectors were treated by the army, and the last reading presents the relevant statistics. As you read, keep in mind the three questions asked at the beginning of this section.

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[6] Congressional Globe, 38th Cong., 1st Sess., Appendix to Vol. 68, 208-209.

1. Speaking in private with a friend on April 2, 1917, four days before the United States declared war on Germany, President Wilson was reported as saying:[7]

> /Wilson claims that war causes people to accept a "spirit of ruthless brutality" in place of tolerance./

2. Speaking in public on June 14, 1917, President Wilson said:[8]

> Woe to the man or group of men that seeks to stand in our way in this day of high resolution. . . .

3. The Draft Law, providing for registration of all males between the ages of 21 and 30 was passed on May 18, 1917. The Law included the provision that[9]

> . . . nothing in this act shall be construed to require or compel any person to serve in any of the forces herein provided for who is found to be a member of any well recognized religious sect or organization at present organized and existing and whose existing creed or principles forbid its members to participate in war in any form and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organizations, but no person so exempted shall be exempted from service in any capacity that the President shall declare to be non-combatant /later defined to include medical, engineering, and clerical work within the armed forces./

4. The Espionage Act was passed by Congress by an overwhelming majority on June 15, 1917.[10] A provision of this law stipulated that anyone who

> Shall willfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces. . . /or/ shall willfully cause or attempt to cause

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[7] John L. Heaton, Cobb of "The World" (E. P. Dutton & Co., Inc., New York, 1924), 270.

[8] Ray Stannard Baker and William E. Dodd, The Public Papers of Woodrow Wilson: War and Peace (Harper, New York, 1925, 1927) V, 67.

[9] The Selective Service Act as Amended (U. S. Government Printing Office, Washington, D. C., 1962), 4.

[10] The Statutes at Large of the United States of America (U.S. Government Printing Office, Washington, D.C., 1919), XL, Part I, 553.

> insubordination, disloyalty, mutiny, or refusal of duty in the military . . . forces . . . or shall willfully obstruct the recruitment or enlistment service. . . shall be punished by a fine of not more than $10,000 or imprisonment for not more than twenty years or both.

5. Secretary of War Newton D. Baker spelled out the policy of the Wilson administration in the following memorandum:[11]

> /Confidential/
>
> To: The commanding generals of all National Army and National Guard division camps.
>
> Subject: Conscientious objectors.
>
> 1. The Secretary of War directs that you be instructed to segregate the conscientious objectors in their divisions and to place them under supervision of instructors who shall be specially selected with a view of insuring that these men will be handled with tact and consideration and that their questions will be answered fully and frankly.
>
> 2. With reference to their attitude of objecting to military service these men are not to be treated as violating military laws, thereby subjecting themselves to the penalties of the Articles of War, but their attitude in this respect will be quietly ignored and they will be treated with kindly consideration. Attention in this connection is invited to a case where a number of conscientious objectors in one of our divisions, when treated in this manner, renounced their original objections to military service and voluntarily offered to give their best efforts to the service of the United States as soldiers.

6. In November 1917, Attorney General Gregory, who as head of the Department of Justice was responsible for prosecuting violations of federal laws, commented about American citizens who opposed our involvement in World War I:[12]

> /Gregory hopes God will have mercy on the dissenters as they will be given none from the people or government./

7. Secretary of War Baker sent the following message to the President

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[11] Congressional Record, 66th Cong., 1st Sess., 3065.

[12] The New York Times, November 21, 1917.

on July 22, 1918:[13]

> We are now doing absolutely all that public opinion will stand in the interest of conscientious objectors.

8. Illustrative of the tenor of public opinion is this listing from The New York Times Index of articles appearing in the Times during April, May and June, 1918.[14] Persons objecting to the war or to service in it were considered seditious, hence the heading.

SEDITION in the U. S.

Anton, A., tarred and feathered in Ashland, Wisc.
Bahr, H. G., held in N. Y. C.
Ballam, J. J., of Boston sentenced.
Bennholdt, (Sister) Elizabeth, arraigned in N. Y. C.
Bultzingsloven, Bruno von, airplane inventor, arrested in N. Y. C. and held in bail.
Chicago -- Mayor Thompson promises arrest of seditious persons following protest by Backer Singing Soc.
Cole, Dr. E. E., tarred and feathered in Appleton, Col.
Collins, Rev. Father Michael D., arrested and released in bond for disloyal remarks at Jackson, Mo.
Courts warned by Atty. Gen. Gregory to speed up trials.
Cuffe, George C., sentenced in N. Y. C.
Degenhardt, Paul, arrested in N. Y. and ordered interned.
Dehnel, P. F., arraigned in Minneapolis on charge of obstructing recruiting and enlistment.
Dept. of Justice's attitude stated by Att. Gen. Gregory in letter to Justice S. H. Howard.
Enfield, Orville C., convicted and sentenced at Oklahoma City.
Fedoff, Frederick, sentenced in Bayonne, N. J.
Gracely, Elias, sentenced in Toledo, O., for threatening life of Pres. Wilson.
Grossner, Philip, convicted and sentenced for encouraging disloyalty among soldiers at Camp Banks.
Hagen, F., cancellation of his naturalization papers sought because of pro-German attitude.
Hicks, W. M. tarred and feathered at Elk City, Okla.
Hilkens, Albert, arrested and held in bail in Chicago for threatening to place bomb in the White House.
Hoffermann, Friedrich, arrested and sentenced in N. Y. C.
Hughes, C. E., talks on sedition as distinguished from honest criticism at dinner of Amer. Newspaper Publishers Assoc.
Hummel, G. F., arrested in Chicago.
Illinois -- Federal agents will be sent to cooperate with State officials in curbing sedition in response to appeal from Gov. Lowden; Gov. Lowden perfects in cooperation with the Federal Govt. an anti-sedition organization to check disloyalty and prevent lynchings.
Knights of Liberty organize to stamp out disloyalty in Cal.

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[13] Congressional Record, 66th Cong., 1st Sess., 3066.

[14] The New York Times Index (New York Times, N.Y., 1918), VI:2,318-9.

punish H. Steinmoltz, G. Keolzer, and G. Poenisch.
Kobusick, Josef, arrested in Tarrytown, N. Y.
Kruger, (Capt.) H., of bark John C. Meyer, accused.
Lehane, C., arrested in N. Y. C.
Leibisch, Gebhardt, convicted of seditious activities in Porto Rico, brought to N. Y. C. for trying to kill guards and have U. S. soldiers desert.
Lewis, J. A., tarred and feathered in Tahlequah, Wis.
Liberty Defense Union will be investigated.
Luck, Dr. Paul, resignation from Passaic Bd. of Education sought by Mayor G. N. Seger for un-American utterances.
McAllister, (Lieut.) J., held at Governors Island for alleged sedition.
Michigan -- Gov. Sleeper issues proclamation calling on people to avoid mob rule.
Newspapers -- G. E. Kelleher asks New England papers to keep standing appeal for report of disloyalty at head of editorial columns.
Pawlik, F., sentenced for disloyal remarks in Hoboken, N. J.
Peterson, J. A., arraigned in Minneapolis on charge of obstructing recruiting and enlistment.
Plunkett, M., arrested in New Haven.
Prager, R. P., German-born Socialist, lynched at Collinsville, Ill., for disloyal speeches.
Prisse, W., put into dough bin and fired at in Salt Lake City.
Rapiz, S., sentenced in Brooklyn for insulting crew of an Amer. transport.
Reed, J., held in Phila.
Riemer, Henry, of Collinsville, Okla., narrowly escapes death for disloyal remarks.
Ringwald, Bernard, placed on trial in Chicago.
Romero, Florencio, convicted of sedition in Porto Rico, sentenced to Atlanta Penitentiary.
Rynders, J. W., ofAthens, Ill., accused of uttering pro-German sentiments, has Amer. flag tied around his neck and is required to lead Liberty Loan parade.
Spieg, Joseph, arrested in N. Y. C.
Stafford, Mrs. Harley, tarred and feathered by women at Montrose.
Stanler, George, arrested in N. Y. C.
Stechlin, Josef, arrested in N. Y. C.
Sulzcki, John, arrested and held in bail in N. Y. C.
Surovy, Rudolph, arrested in N. Y. C.
Tachjin, Tony, arrested in Bayonne, N. J. and sentenced.
Weinsberg, Dr. C. H., arrested in St. Louis.
Weiss, (Dr.) G. C., arrested in Mt. Vernon, N. Y., arraigned in N. Y. C. and released in bail.
Westley, Henry, sentenced for disparaging remarks about the U. S. Army.
Wicek, Rahor, arrested at Tarrytown, N. Y.
Woldt, Otto, arrested in N. Y. C.
Zuschlag, E. F., private at Camp Pike, Ark., sentenced.

See also Enemy Aliens; Espionage Act; Industrial Workers of the World; Non-Partisan League; Socialists; U. S. -- Congress -- Bills -- Court Martial Bill, and Sedition Bill.

9. Public opinion expressed itself in other ways:[15]

> Many organizations cooperated to make local, state, and national laws /quieting opponents of the war/ successful. There already existed city, county, state, and national police and detective forces. These were expanded and new units were formed. In addition, numerous semi-official and private organizations for the purpose of suppressing opposition to the war were set up throughout the country. Among these were the American Defense Society, the National Security League, the American Protective League, the Home Defense League, the Liberty League, the Knights of Liberty, the American Rights League, the All-Allied Anti-German League, the Anti-Yellow Dog League, the American Anti-Anarchy Association, the Boy Spies of America, the Sedition Slammers, and the Terrible Threateners.

10. An account of an incident in Southern Illinois:[16]

> /The selection indicates that the Zib brothers, who registered as conscientious objectors, were sought by vigilantes and when they couldn't find them, they burned all their possessions./

11. In a contemporary report on conscientious objectors, the National Civil Liberties Bureau commented on the climate of public opinion:[17]

> /The report reveals that the newspaperman and "the average citizen" think of conscientious objectors as slackers and cowards in disguise./

12. Many cases concerning the draft and objectors reached the courts. One such case involved a man who late in 1917 circulated a pamphlet entitled "Are We Facing a Militarized America?" in which he wrote:[18]

> Conscription has been thrust on an unwilling people without a referendum. . . . /Americans should/ demand the repeal of the Conscription Act.

The verdict later sustained by a federal appellate court: guilty of violating the Espionage Act. The sentence: six months in jail.

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[15] H. C. Peterson and Gilbert C. Fite, Opponents of War 1917-1918, (University of Wisconsin Press, Madison, 1957), 18.

[16] Ibid., 201.

[17] National Civil Liberties Bureau, The Facts About Conscientious Objectors in the United States (New York, 1918).

[18] Firth et al. v. U. S., 253 Fed. 36 (4th Circuit) 1918, as quoted in Peterson and Fite, Opponents of War, 30.

13. Reporting to the U. S. Senate on an incident which occurred on July 4, 1917, Senator Hardwick of Georgia said:[19]

> A man in New York got up a circular composed of two or three quotations from the Declaration of Independence verbatim et literatim -- there was no dispute about the accuracy of the quotations -- and two or three quotations from Washington's Farewell Address. A monstrous crime that! At the bottom of his circular he put this simple question and it was his sole contribution to the literature. "Is our Government living up to these principles?" For that they arrested him and threw him in jail, I suppose under the Espionage Act that we passed. One regret of my life is that I voted for that act in any form, although I did my best to amend it so as to safeguard the liberties of both the people and the press.
>
> They put him in jail, and it took a writ of habeas corpus in the district court of the United States to release from prison a man whose only offense was asking the question whether our Government had lived up to certain principles in the Declaration of Independence and in George Washington's Farewell Address.
>
> Mr. President, I submit that is not right. It is everlastingly wrong. It is tyrannical. It is despotic. As long as men in authority pursue that sort of pathway they can never force the American people to do their will. If they can, then the people are not fit to be free. If they can, freedom is a name and a mockery, and not a fact and a substance, in this great country of ours.

14. A socialist leader was alleged to have made the following remarks in mid-1917:[20]

> The war with Germany was a rich man's war; that they were sending your boy and mine to fight to protect the moneyed interests and Wall Street; that the Draft Act was an injustice, unconstitutional, and wrong; . . . that, if the United States had loaned money to Germany, we would be fighting on their side; . . . and [to a recent enlistee], you are a damn fool to enlist in the navy and to fight in the interest of the rich.

The verdict, which was later sustained by an appeals court: guilty of violating the Espionage Act. The sentence: two years at Fort Leavenworth Penitentiary.

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[19] *Congressional Record*, 65th Cong., 1st Sess., 6743.

[20] *Tralease v. U. S.*, 266 Fed. 886 (8th Circuit) 1920, as quoted in Peterson and Fite, *Opponents of War*, 65-6.

15. One challenge to the draft act reached the Supreme Court. As you read the following excerpt from the verdict, remember the debate in Congress prior to enactment of the measure.[21]

> We are here concerned with some of the provisions of the Act of May 18, 1917. . . . [In accordance with it], the proclamation of the President calling the persons designated . . . was made. The plaintiffs [on trial] . . . were obliged to present themselves for registration and subject themselves to the law, failed to do so and were prosecuted under the statute for the penalties which it provided. They all defended [their actions] by denying that there had been conferred by the Constitution upon Congress the power to compel military service by a selective draft, and asserted that even if such power had been given by the Constitution to Congress, the terms of the particular act for various reasons caused it to be beyond the power and repugnant to the Constitution.
>
> [It is clear to the Court that] the possession of the authority to enact the statute must be found in the clauses of the Constitution giving Congress power "to declare war; . . . to raise and support armies; . . . to make rules for the government and regulation of the land and naval forces . . . and . . . to make all laws which shall be necessary and proper for carrying into executing the foregoing powers." . . .
>
> [Since] the mind cannot conceive an army without the men to compose it, . . . the objection that [the Constitution] does not give power to provide for such men would seem . . . frivolous. [Yet the plaintiffs claim that] compelled military service is repugnant to a free government and in conflict with all the great guarantees of the Constitution as to individual liberty. . . . [They maintain that] the authority to raise armies was intended to be limited . . . [by] the willingness of the citizen to do his duty in time of public need, that is, in time of war. . . . This assumption is without foundation. It may not be doubted that *the very conception of a just government and its duty to the citizen includes the reciprocal obligation of the citizen to render military service in case of need and the right to compel it*. . . . [There is] almost universal legislation to that effect now in force. [Thirty-six countries are cited as examples, including all the major belligerents in World War I.]
>
> Judgment [of lower courts of one year in jail] affirmed.

16. Persons found guilty by the courts of violating the provisions of the Espionage Act were usually sent to state or federal penitentiaries.

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[21] *Arver et al. v. U. S.*, 245 U.S., 366, passim. Underlining added.

Violators of the Draft Act, including those who refused to register, were considered soldiers and placed in the custody of the military, to serve their time in military camps or forts. Following is a verse from the "Objector's Anthem" composed by the prisoners in Fort Riley, Kansas:[22]

> /The verse is a satire on the lot of the conscientious objector. Fort Riley is facetiously referred to as a "pleasant home" to which they were sent at government expense./

17. A letter written by a conscientious objector:[23]

> /Evan Thomas, an imprisoned conscientious objector, writes a letter to the Adjutant General, citing examples of how conscientious objectors in the prison camp are being treated like criminal soldiers, contrary to the liberal statements from the government./

18. Another account described in greater detail the treatment of objectors witnessed by Prisoner Thomas:[24]

> /Various forms of physical torture are described from hanging the objectors "until they were at the point of collapse" to spraying them in the face with a hose until they collapsed./

19. The army sent a memorandum to Thomas' mother who had requested an explanation of her son's treatment:[25]

> /The memorandum describes how Thomas at first took a job in the prison office as a copyist but then decided to refuse to cooperate and "to take his medicine."

20. An account by a fellow inmate describes what next transpired:[26]

> /Thomas was confined to solitary confinement as were nine other

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[22] Norman Thomas, Is Conscience a Crime? (Vanguard Press, New York, 1927), 137.

[23] National Civil Liberties Union, Political Prisoners in Federal Military Prisons (Privately printed, New York, 1918), 16-18.

[24] Peterson and Fite, Opponents of War, 128.

[25] National Civil Liberties Union, Political Prisoners, 18-19.

[26] Ibid., 9-12.

> conscientious objectors, five of whom had been beaten and manhandled. Their background and the conditions of their confinement are described. Specific instances of beatings and tortures for refusal to cooperate with the military officers are then described. These were reported to higher authorities but nothing was done to make amends.]

21. A prisoner's letter dated November 14:[27]

> [The hope is expressed that Washington will do something to correct the mistreatment of the conscientious objectors in order to live up to its liberal statements and "the *right* to be free-minded religiously and politically." A wish that people could see "the repressive policies" of the military is also expressed.]

22. Major General Leonard Wood of Spanish-American war fame was one of the army officers responsible for the treatment of men in several of the camps. Here he answers the letter of a father who had protested the "mistreatment" of his son.[28]

> [Wood explains that the man's sons "and his associates" are a disruptive element in the camp who are not religious objectors since they belong to no church. He asserts that the Government "would soon cease to exist" and be defeated by the aggressor if men of the type of his son and his associates were not rare.]

23. Thomas' father replied to General Wood:[29]

> [The father contends that Wood represents an aggressor "from within" who "out-Prussianizes" the worst of the Prussians, and who is "at once un-American and inhuman." He also claims that his son is the opposite of a coward as he stands by principles other than "submission and servility."

24. A Letter to the Secretary of War from an American Army officer with relatives in Germany:[30]

> [The officer requests dismissal from the German campaign or, at least, a transfer to another field since he does not feel he

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[27] *Ibid.*, 18-14.

[28] Peterson and Fite, *Opponents of War*, 128-9.

[29] *Ibid.*, 129.

[30] *Ibid.*, 83-84.

can fight his own kindred.]

Captain Henkes was sent to Europe and performed his duties but wrote again asking to be allowed to resign. He was arrested, tried, convicted by a court-martial, and sentenced to 25 years hard labor at Fort Leavenworth Penitentiary.

25. A military prison official commented on the conduct of objectors:[31]

> Camp Funston was selected as a dumping ground for . . . a large number of these so-called conscientious objectors. The military authorities had no trouble whatever in dealing with those having religious scruples against engaging in combatant service. They all readily accepted such noncombatant service as was assigned to them.
>
> There was, however, a large number of alleged conscientious objectors, who, when selected under the draft act, made no claim that they had religious scruples against fighting, but pretended to have conscientious objections based upon the view of the obligations which they owed to the country.
>
> They were composed in the main of German, Austrian, Russian Socialists, and I. W. W., who openly denied the right of the United States to induct them into the military service, some of whom had endeavored to get commissions in the Army and after having failed to do so, when drafted, conveniently found themselves opposed to engaging in military service, and then, when ordered to perform noncombatant duty, openly declared that they owed this country no duty, refused to obey any order from a military source, thereby defying the military arm of the Government.
>
> These men had conspired together and refused to obey the lawful commands of a superior officer to wear the uniform of the United States Army or to take a rake and rake up hay and load it on a wagon; or to police up around their own quarters. Charges had been preferred against them for violation of the sixty-fourth article of war, and they were in confinement in the provost guardhouse awaiting trial or result of trial by general court-martial. . . .
>
> They would even refuse to march in orderly formation to and from their mess, but would straggle along as they saw fit, and when being ordered out to mess or exercise they would stand in the doorway and block it so that the guards or other persons could not pass, defying the guards and officers to move them; they refused to take exercise, baths, and keep their bodies and belongings clean and in a sanitary condition; they refused to be vaccinated or inoculated in order to safeguard themselves as well as their fellow soldiers from sickness and disease. In fact, they refused to obey and apparently took pleasure in letting it be known that they would take no part under the Military

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[31] *Congressional Record*, 66th Cong., 1st Sess., 3065.

> Establishment nor obey any military command whatever. In their attitude they repeatedly let it be known that they were receiving encouragement from outside sources and claiming they would be protected in their attitude by the War Department.
>
> To illustrate their recalcitrant attitude, if the meals which were provided for them and other prisoners did not suit them they would engage in throwing the dishes, camp stools, and their mess kits around the mess hall, acting in the most mutinous and disorderly manner. When ordered to stand at attention by officers engaged in inspection duty, they would refuse to assume a proper position; in order to provoke these officers they would defiantly put their feet as far apart as possible and make grimaces at them, asking them what they were going to do about it.

26. The following charts indicate the number of conscientious objectors in World War I. Those who changed their minds between induction and the beginning of military life in camp frequently did so in response to social pressures from the general public and occasionally to military pressures felt upon their arrival in camp. Not mentioned in the statistics are 171,000 "draft-dodgers", who were also inducted and/or punished, and 337,649 deserters.[32]

> /The chart indicates that only 0.3% of the total number registered requested conscientious objector status. Nearly one third who claimed this status were inducted./

Of the approximately 4,000 conscientious objectors, 500 were court-martialed and sentenced.

> /The chart indicates that the great majority of those sentenced were given life imprisonment./

C. World War II

Selections in this part outline the treatment of objectors during World War II and the attitudes of officials and the general public which shaped that treatment. Keep in mind the three questions asked at the start of this section.

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[32] R. R. Russell, "The Development of Conscientious Objector Recognition in the United States," George Washington Law Review, 20 (March, 1952), 431; Harlan F. Stone, "The Conscientious Objector," Columbia University Quarterly, 21 (1919), 253; Mulford Sibley, Conscription of Conscience: The American State and the Conscientious Objector, 1940-1947 (Cornell University Press, Ithaca, 1952), 144.

1. The Selective Training and Service Act of 1940 was passed before the United States was a full-fledged participant in World War II. Thus providing for "peacetime conscription," it marked a new departure for the United States, whose earlier draft laws followed rather than preceded the declarations of war. Congressional debate focussed primarily on this point, the principle of conscription itself having been established by precedents set during the Civil War and World War I. The draft law required men between the ages of 21 (later 18) and 36 to register, making the following provision for objectors:[33]

> Nothing contained in this Act shall be construed to require any person to be subject to combatant training and service in the land or naval forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Any such person claiming such exemption from combatant training and service because of such conscientious objections whose claim is sustained by /Selective Service authorities/ shall . . . be assigned to noncombatant service as defined by the President, or shall, if he is found to be conscientiously opposed to participation in such non-combatant service . . . be assigned to work of national importance under civilian direction.

2. A general description of the treatment of objectors appeared in Harpers in an article entitled "Report from a Conscientious Objector."[34]

> /The "CO's" as a group in a CCC camp are described as young; either religious, humanitarian, or political objectors; mixed in religious backgrounds; one-half married and one-fifth fathers. They receive no pay or dependency allotment for their work and have served on dangerous and debilitating jobs with no insurance. They vary in beliefs within their larger conviction and are of widely different types, e.g. from a Pulitzer Prize winner to a carnival weight guesser. The total number of CO's can not be determined as many are exempted for other reasons

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[33] The Selective Service Act as Amended, 23.

[34] William Fifield, "Report from a Conscientious Objector," Harpers, (January, 1945), 189-192.

> but there are (in proportion to the total draftees) "three times as many CO's in this war as in the last."/

3. Desmond Doss, a Seventh Day Adventist, became the most widely known of the objectors to serve in the medical corps. The United Press described the actions which won Doss a Congressional Medal of Honor.[35]

> /The article describes numerous instances in which Doss, at great personal risk, rescued American soldiers at the battlefront. Other examples of selflessness at the front by Doss are also cited./

4. Objectors serving outside the armed forces were members of the Civilian Public Service. The "Report" described the reforestration work typical of a C.P.S. camp. Even wider publicity was given by both popular and medical journals to medical experiments performed on objectors. The following report from Life originally including pictures, was entitled "Men Starve in Minnesota -- Conscientious Objectors Volunteer for Strict Hunger Tests to Study Europe's Food Problem:[36]

> /The article is a description of some of the experiences of the conscientious objectors who volunteered to be "guinea pigs" for the hunger tests. The tests caused the participants to lose about 22% of their weight, slowed their pulse, shrunk their hearts, and reduced their blood volume. They felt cold, "old", and were constantly thinking and dreaming of food./

Time had this to say:[37]

> /The article also describes the effect of the hunger trials on the CO's and concluded that, since the tests indicated that even the most idealistic could only think of themselves, one cannot expect people to be concerned with freedom and have strong wills when "you aren't feeding them."/

5. The following account was written to her Senator by a woman who visited six C.P.S. camps and one mental hospital unit as a guest lecturer on literature as part of the C.P.S. educational program.[38]

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[35] Philadelphia Record, October 8, 1945, as quoted in Mulford Sibley, Conscription of Conscience, 94-95.

[36] Life, July 30, 1945, 43.

[37] "The Conscientious Guinea Pigs," Time, December 10, 1945, 60.

[38] Congressional Record, 78th Cong., 2nd Sess., A 3873.

> Cedar Falls, Iowa
> August 31, 1944
>
> Senator Guy Gillette
> United States Senate
> Washington, D. C.
>
> Dear Senator Gillette:
>
> I found here [in the C.P.S. projects] some of the finest young men I've ever met, taking their responsibilities seriously, thoughtful, deeply devoted to the best service of their country and the world. . . .
>
> I can testify that the majority of men in these camps are working hard in the longtime service of their country. The financial situation of many of them is getting serious. Some have been in C.P.S. since the beginning of the draft. Two dollars and fifty cents a month [allowance] doesn't go far. The hand-me-down left-over C.C.C. coats and shoes don't always fit. At all the evening meetings where I spoke, men sat patching up old clothes and even shoes while they listened. There is considerable soreness, [among them]. . . that in a democracy such as ours, a minority group is allowed to work for its own government at less than subsistence wages. . . . The question of dependents is very serious. Mrs. Roosevelt [wife of the president] recently in some of her columns took a stand against an allowance for the dependents of conscientious objectors, describing them as men who in this crisis are doing what they like. They certainly are not. Most of them would like to give aid and relief immediately in war-torn areas everywhere. The work of the guinea pig units shows that they don't shun danger. They feel that their families are being penalized for their stand on the grounds of religious conscience -- one of the things that has entered into the making of our country from the very start, from the landing of the Pilgrims. The men know that they are minority, were prepared to sacrifice and have sacrificed many cherished things, present approval of communities and country, financial benefits of all kinds, jobs in many instances. . . .
>
> I don't wish to present these men as martyrs -- they aren't, and aren't willing to be considered so. But I do wish to express concern for their actual needs. . . .
>
> Sincerely,
>
> Ruth Suckow . . .

6. An overall appraisal of the work of C.P.S. is ventured by the American Friends Service Committee, one of the religious agencies entrusted with the administration of the C.P.S. camps. The facts and conclusions presented in the report are born out by other governmental and private agencies involved in C.P.S. work.[39]

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[39] *Congressional Record*, 79th Cong., 1st Sess., A3591-3592.

THE WARTIME SERVICE AND TREATMENT OF CONSCIENTIOUS OBJECTORS IN THE UNITED STATES

(A report of the American Friends Service Committee)

The service and treatment of conscientious objectors in the United States during the last 4 years of military conscription has been an important advance in the recognition of religious freedom over the First World War. Yet legal and administrative inadequacies have limited effective efforts of this minority in the service of the Nation, and have resulted in unjust discrimination out of keeping with the country's heritage of civil liberties.

Since 1941 the American Friends Service Committee (AFSC) has, at the request of the United States Government, shared with other church agencies in financing and administering the work of conscientious objectors under the Selective Training and Service Act of 1940. . . .

Conscientious objectors in Civilian Public Service have unquestionably made an impressive and widely approved contribution to the national welfare during this war.

About 10,000 men of all religious faiths. . . have been assigned to alternative service under civilian direction instead of being confined in guardhouses or barracks of casual detachments as in the last war. These men have performed close to 5,000,000 man-days of labor for the Government in forest fire fighting and prevention, soil conservation, park maintenance, public health services, care of the mentally ill and mentally deficient, agricultural work, and in medical research where the men have volunteered as human guinea pigs.

At the minimum army rate of pay this work would be worth more than $10,000,000 in addition to the cost of maintaining the men. Actually the men have not been permitted to receive wages, and church agencies have paid more than $5,000,000 for maintenance expense and administration. The whole service of the men has been rendered practically without cost to the Government.

The services of Civilian Public Service men in mental institutions and as guinea pigs in scientific experiments has been particularly significant. Substantial improvements in standards of mental care are resulting from the work and concern of the 2,000 men who volunteered to help meet an acute shortage of adequate help in mental hospitals and training schools /for the mentally retarded/. For 8 to 12 hours a day, under depressing conditions and great physical and nervous strain, these men have fed, dressed, and washed patients, cleaned up after them, made their beds, given medications, assisted with shock therapy and heat treatments, scrubbed floors, operated hospital farms, tended the furnaces, and assisted in occupational and recreational therapy. . . .

Several hundred Civilian Public Service men have volunteered as experimental subjects in important medical research contributing to the control of wartime epidemics, especially of typhus, jaundice, malaria, and a typical pneumonia. Extensive projects in nutrition research are also using Civilian Public Service guinea pigs under conditions of prolonged starvation, thirst, extreme heat and cold, high and low altitudes, and shipwreck.

We are convinced both of the good faith, and the high ability of the large majority of the men in Civilian Public Service. Technical supervisors have commended their work and have been extremely reluctant to release men for other assignments, although a steady stream of requests for Civilian Public Service assignees has come from Government departments and public institutions throughout the country. Widespread public approval of the work of conscientious objectors has appeared in press and periodical comment and in reliable surveys of public opinion.

Notwithstanding this gratifying record of the conscientious objectors in Civilian Public Service . . . many sincere men have been excluded from rendering useful service and Civilian Public Service men and their families have unjustly suffered financial discrimination and impoverishment. . . .

The present law inadequately recognizes conscience and has therefore deprived the country of the service of many sincere men.

About 5,000 men, including about 3,500 Jehovah's Witnesses[40] have been sent to prison for terms aggregating 12,000 years because the Selective Training and Service Act of 1940 fails to recognize nonreligious objectors, or to provide for those who are conscientiously opposed to the compulsory element in the service. Every sixth man in Federal prisons at the end of 1944 claimed conscientious grounds for refusing military service. . . .

The American Friends Service Committee is especially concerned over two unfortunate precedents. . . . While freedom of conscience has been given a large measure of legal recognition, the lack of wages, compensation for injury and dependency allotments constitutes financial discrimination against persons because of their religious belief. Secondly, by failing to pay men for service which it requires them to perform, the Government has in effect instituted a pattern of forced labor. Neither of these practices, we believe, can long continue without jeopardy to the health of our democracy. Equal respect and consideration by Government for the welfare of all its citizens should prevail if we are to maintain the foundation principles of our Nation. . . .

/The American Friends Service Committee, recommended, among other things./

That the Government provide pay for Civilian Public Service men working on Government projects, approximating the pay for other

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[40] This sect felt that both non-combatant and alternate service were against God's will.

> drafted men; and that Civilian Public Service men engaged on non-governmental projects be entitled to receive pay/ and that all drafted men assigned to civilian service receive adequate Government allowances for their dependents and compensation for injury or death incurred while in line of duty.

7. Most of the people who camein contact with objectors in C.P.S. projects had high regard for them both as men and as workers. One mental hospital superintendent felt otherwise.[41]

> /The superintendent contends that the CO's should have been declared unfit because of mental disorders and claims that, as a group, they are anarchistic and selfish./

8. The next three selections are concerned with the attitude of the man in the street toward conscientious objectors as measured by professional poll-takers. To what extent does the treatment described in the foregoing readings reflect these attitudes?

Late in 1939 people were asked, "If we do go to war, what do you think should be done with the conscientious objectors (people who have either moral or religious scruples against war)"?[42]

> /The chart indicates that a majority of the American people felt that the conscientious objectors should be inducted, either in non-combatant (37.1%) or combatant (24.1%)roles.

9. A more thorough study was made in late 1943 and early 1944 in which poll-takers interviewed a group of 308 Americans chosen so as to represent the general public with respect to sex, age, income, and education:[43]

> /The charts reveal that: the large majority (80%) of the people oppose men of draft age having the choice of whether or not they will fight in the war; that there is an indecisive division over whether Americans think of the CO's as idealists or cowards; nearly a majority (44.5%) think the CO's should be given non-fighting duties; the large majority think they should be paid for non-combatant duties in the same amount as privates but should not be allowed to persuade other men to become CO's

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[41] Mulford Sibley, Conscription of Conscience, 371-374.

[42] Fortune, XXI (January, 1940), 88.

[43] Leo P. Crespi, "Public Opinion Toward Conscientious Objectors," Journal of Psychology, 19, (April, 1945), 277-310 passim.

> during war, fewer, but still a majority (55.1%) think one should be as friendly toward them after the war; 63.2%, however, would be less likely to vote for a person who was a conscientious objector during the war if he were a candidate for public office.

10. Another poll sought to assess not simply how people felt about conscientious objectors, but how people felt other people felt about these objectors. The poll was undertaken, says the psychologist who devised it, since "in the absence of actual studies of public opinion, . . . the major determinant" of government's policies toward objectors may have been a stereotype rather than a real picture of how the public actually felt.

The same group described in the last poll was given the following "thermometer" on which they were asked to indicate (1) the number of degrees, in their opinion, that the attitude of the general public might average; and (2) their own attitude.[44]

> /The "thermometer" is scaled in tenths from the extreme of thinking that conscientious objectors should be shot as traitors to the extreme of treating them no differently than anyone else. The survey revealed that, though Americans typically think other Americans will not be tolerant of CO's, a majority will accept them "as friends or closer."/

11. The negative feelings of the man in the street against objectors were rallied by certain organized groups, notably the American Legion and the Veterans of Foreign Wars. The following letter, representative of their viewpoint, addressed to the editor of a Massachusetts newspaper, was reprinted in the Congressional Record:[45]

> The American Legion,
> Chelmsford Post, No. 212
> Chelmsford, Mass.
> August 26, 1940
>
> Whereas we American Legionnaires, both wartime and peacetime

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[44] Ibid., 251-276, passim.

[45] Congressional Record, 76th Cong., 3rd Sess., 5264.

> defenders of our Constitution, sponsors of the one "ism," "Americanism," find the story existing now as in 1917, namely, Excuse the Conscientious Objectors from the Draft,
>
> Whereas there are certain individuals, cliques, religious sects, etc., who would not bear arms in defense of their country, but readily reap of its numerous benefits, and
>
> Whereas there being at present a visible threat to our national independence necessitating the present draft law, where national unity must take its preeminent place, and there being no room in unity for objectors, therefore be it
>
> Resolved, That Chelmsford Post No. 212, American Legion, go on record as opposed to objectors of the draft, conscientious or otherwise, that if there must be such reluctant patriots, they be made to serve their country as common laborers, road and airport builders, etc. Be it also
>
> Resolved, That the so-called conscience of these objectors be thoroughly examined, and if found wanting, the holders of such conscience be placed in concentration camps or be deported.
>
> Napoleon T. Manseau, Adjutant

12. Public opinion was naturally reflected in debates in Congress, the body which had the responsibility for formulating governmental policies for the treatment of objectors. In August 1942, the following discussion took place in which Senator Thomas of Utah, Senator McKellar of Tennessee, Senator Johnson of Colorado, and Senator Barkley of Kentucky participated:[46]

> The bill (S. 2708) to amend the Selective Training and Service Act of 1940, as amended, so as to extend the benefits of the Employees' Compensation Act to conscientious objectors was announced as next in order.
>
> MR. McKELLAR. Mr. President, may we have an explanation of the bill?
>
> MR. THOMAS of Utah. Mr. President, as all Senators know, conscientious objectors who are certified as actual conscientious objectors by the Department of Justice are relieved from military duty, at their own expense, and pay for their own upkeep, doing Federal work in such places as Civilian Conservation Corps camps or around the various military reservations.
>
> The bill before us merely makes it possible, if a conscientious objector is injured in doing this Federal work for which he is not

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[46] Congressional Record, 77th Cong., 2nd Sess., 6981-6982.

paid, to receive compensation under the Employees' Compensation Act. It is a very fair bill.

MR. McKELLAR. Does the Senator think that a man who objects to fighting for his country should be rewarded in this way by his country? . . .

MR. THOMAS of Utah. The objection which the Senator from Tennessee has is, of course, an objection to the Selective Service Act as it is written. Judgment has already been passed on the conscientious objector. He is given certain privileges and certain deferments by the law of the land. He gives his service to the country free of charge. He does valuable work. The only thing which the proposed amendment to the act would accomplish would be that it would give to the man who is working for the Government of the United States for nothing the same privileges, insofar as compensation under the Workmen's Compensation Act for injuries are concerned, as are received by similar workmen who are being paid for their work by the Government. The question of whether a conscientious objector, as such, should be paid anything or not is not at all germane to the bill. . . .

MR. JOHNSON of Colorado. In addition to what the Senator from Utah has said, the conscientious objectors not only receive no pay but someone puts up money for their expenses. When a man in that category is injured and goes back to society with one leg off, or both arms gone, or injured in some other way so that he cannot resume his former place in society, someone has to take care of him, either his folks upon whom he will be dependent, or society in general. The object of the bill is to take care of such cases in an orderly way. It is not a bill providing benefits for the individual; it is a bill for the protection of the United States Government.

MR. BARKLEY. As I understand, if the same individual working for the Government in any other branch, and receiving pay for his work, were injured, he would come under the protection of the compensation law.

MR. JOHNSON of Colorado. The Senator is correct.

MR. BARKLEY. But he would not come under it under the circumstances stated by the Senator, and the bill would merely permit him to make application for compensation in case he were injured?

MR. JOHNSON of Colorado. Under the present statutes and under the present laws, his case is left up in the air. Whether he is an employee or not is debatable. His status is undefined. . . .

I understood the Senator from Utah to say these men receive no pay. I suppose they are paid their expenses, of course.

MR. JOHNSON of Colorado. No; their folks or their church have to put up their expenses. They do not receive their expenses at all.

MR. McKELLAR. The church puts up the expenses?

MR. JOHNSON of Colorado. The church puts up the expenses.

MR. McKELLAR. What bothers me is that I do not think conscientious objectors during a war, especially such a war as that in which we are now engaged, should be encouraged. I think that if we continue to throw safeguards around them and make everything easy for them, the next proposal will be to pay them salaries or compensation for all work done, to pay for their upkeep, and everything of the kind, and we will have an army of conscientious objectors in this country. I do not feel very kindly about it. I think any man who lives in America should be willing to fight for it at the proper time, regardless of everything else.

MR. THOMAS of Utah. Everyone in the United States Senate agrees with the last statement made by the Senator; we would be very happy to fight for our country; but there are certain religious sects which have taken action against war and participation in war, and those sects have been recognized by the Government of the United States.

MR. McKELLAR. How many men would come under the provisions of the bill, or might come under it? How many conscientious objectors are there in the country today?

MR. THOMAS of Utah. I do not know the exact number.

MR. JOHNSON of Colorado. Something less than 4,000.

MR. THOMAS of Utah. The number is very small compared with the number in 1917 and 1918. The way in which they are handled in the present war is such an improvement over the method in vogue in 1917 and 1918 that we should all rejoice over the manner in which this matter is being handled.

So far as the conscientious objector in this war is concerned he finds a place thoroughly consistent with his belief and with his fundamental notions, and the Government of the United States has discovered that this part of the Selective Service Act is working to the satisfaction of those great sects -- there are only three of them -- which stand definitely in recognition of nonwar activity.

MR. McKELLAR. . . . It seems to me that by the passage of this measure we would get into a situation which none of us wants to get into; that we would encourage conscientious objecting. I shall not object to the consideration of the measure, but I wish to state for the record that I shall vote against it.

> MR. JOHNSON. . . . . We should not confuse the conscientious objector with the slacker. One is entirely different from the other. The conscientious objector must establish his right to that status according to law. He is sponsored by his own church. As has been stated, the money for his keep and for other purposes is provided by his church.
>
> I do not think the passage of the bill will contribute in any degree to an increase in the number of conscientious objectors. I think it will work in the opposite direction. I wish to emphasize again that the proposed legislation is not to be of assistance to the conscientious objector, but it is to work out an orderly plan for taking care of a very few serious cases of injury to men who would become a burden upon someone, and since they are working for the Government and contributing in a wholesome and considerable degree, the Government ought to take care of that problem.
>
> The PRESIDING OFFICER. Is there objection to the present consideration of the bill?
>
> There being no objection, the bill . . . to extend the benefits of the Employees Compensation Act to conscientious objectors . . . /is/ passed.[47]

13. Some objectors declined to follow Desmond Doss into the medical corps or William Fifield into the Civilian Public Service. The alternative was a trial and probably prison. Such was the fate of a biology student who returned from a Quaker work project in Mexico on his 18th birthday in order to refuse to register for the draft. Explaining his views, Mr. Richards said:[48]

> /Richards opposes conscription as being "totalitarian" and a denial of basic American principles "for which my family has struggled for generations."/

At the time of his trial, Richards elaborated this position:[49]

> /Richards states his opposition to conscription and war and admits that he puts his conscience above love of country. The judge notes that if Richards had registered as a conscientious objector he would not have had to bear arms, but since he didn't the Court would have to sentence him to imprisonment "for a period of one year and one day."/

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[47] The bill was later defeated in the House of Representatives.

[48] Mulford Sibley and Ada Wardlaw, Conscientious Objectors in Prison: 1940-1945. (Pacifist Research Bureau, Philadelphia, 1945), 17.

[49] Mulford Sibley, Conscription of Conscience, 34-342.

14. Documents from prisons raise difficult problems of interpretation. Conditions differed from prison to prison, and from year to year. Cases of brutality were reported by CO's but were in few instances confirmed by the Bureau of Prisons. Solitary confinement was still practiced, but in general conditions seem to have improved considerably since World War I. This is not to suggest that there was no criticism of the prisons. The prisons themselves carried on hunger strikes and work slowdowns to protest either the military routine, the lack of pay or pardon, or even to protest against conscription itself. But apart from exceptional cases, Evan Thomas' letter of World War I could not have beeen written for a World War II prison.

15. The following chart indicates the number of conscientious objectors prosecuted in the courts.[50]

> /The chart indicates that 5,516 conscientious objectors were prosecuted in the court for failure to comply with one of seven regulations. The great majority either failed to report for induction or failed to report to C.O. camp./

16. Post-war treatment of those conscientious objectors who had been imprisoned was discussed in an article from the Saturday Evening Post, entitled "Should The CO's Go Free?[51] The "amnesty" described was necessary in order to restore civil rights (voting, office-holding) to persons convicted of felonies, as these rights are not automatically restored to felons, even after they have served out their sentences. What light do the psychologist's polls shed on the policy described in the article?

> Last fall General MacArthur ordered the release of nearly 1,000,000 political prisoners in Japan, including pacifists. In July of this year General Clay announced an amnesty for about 1,000,000 German political offenders under the age of 27. Canada has ended her draft-registration system and written off the cases of some 14,000

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[50] Ibid., 333. The statistics were drawn from those compiled by the United States Department of Justice.

[51] The Saturday Evening Post, (November 23, 1946), as reprinted in Congressional Record, 80th Cong., 1st Sess., A718.

deserters, including 8,000 conscripts who took to the woods rather than report for induction. Only 13 conscientious objectors remain in British jails.

In this country, President Truman has proclaimed a general amnesty for all men convicted for any reason under Federal law who later served meritoriously in the armed forces during World War II. But our conscientious objectors remain in prison or do what amounts to forced labor for little or no pay in the Civilian Public Service camp and unit system, supervised by Selective Service. . . .

Objectors differed among themselves on the extent and application of their individual or group principles. Some who objected to the use of force served with credit in medical or noncombatant detachments, and one earned a Medal of Honor for conspicuous bravery beyond the call of duty. But others were unable to reconcile their beliefs with any participation in war. About 1,500 of these men are still in prison. The 4,500 who have been released have lost their civil rights and can regain them only through an amnesty. . . .

Sentences imposed by the courts on convicted offenders varied very widely. The average was 30.6 months, higher than the punishment given to dope peddlers. . . or mail swindlers. But in Vermont, during the year ending June 30, 1943, the average was 1. 1 months; in South Dakota during the same period it was 55.7 months. Everything depended on the Federal judge hearing the case. . . .

The picture is confusing, as it always is when the ideal of individual liberties comes in conflict with the necessities of total war. In all civilized, democratic countries freedom of conscience is one of the most jealously guarded human rights. But when the national existence is deemed to be at stake and when the law requires all male citizens of certain ages to serve, the conscientious objector must suffer for his belief. Generally, the climate of war being what it is, he suffers rather more than he should.

But in all free, civilized countries, it is also true that when the danger is ended and the emergency over, governments of that kind restore as quickly as possible the normal state of affairs. To extend an amnesty now to conscientious objectors could do no possible harm, and would follow a sound American tradition recognized by such widely different Presidents as Washington, Lincoln, and Coolidge.

SECTION III

THE MEANING OF CONSCIENCE

Thus far you have considered the question of whether the government has the right to conscript its citizens for military service (Section I) and have observed the treatment of those who have refused to be thus conscripted (Section II). Yet until now the reasoning which has driven men to object has rarely been spelled out in detail. That is the purpose of this section.

Part A reviews the laws concerning conscientious objectors. Part B shows why the consciences of objectors impelled them to object. Part C examines a recent case of conscientious objection.

A. The Laws Concerning Objectors

Those who have objected to being conscripted to serve in time of war have done so on various grounds. Some objections have been found to qualify as "conscientious" in the eyes of the law; others have not. In fact, in setting up the criteria for "conscientious" objection, laws in various periods have adopted different standards. Following is a brief review of relevant sections of the various conscription laws which have been discussed in Section I and II. The last addition is the law under which the present draft operates. From all of these, does any pattern of change over time emerge?

Objectors as defined in law:[1]

1757: Inhabitants of this province . . . called Quakers. . . .

1864: Members of religious denomination . . . conscientiously opposed

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[1] See citations above. 1948 statute is from The Selective Service Act as Amended, 77.

> to the bearing of arms. . . and . . . prohibited by the . . . faith and practice of said religious denomination /from doing so/ . . . .

> 1917: Any person . . . found to be a member of any well recognized religious sect or organization . . . whose creed or principles forbids its members to participate in war in any form and whose /personal/ religious convictions are against war or participation therein. . . .

> 1940: Any person . . . who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. . . .

> 1948: /Same as 1940, additing/ Religious training and belief . . . means an individual's belief in relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code.

B. The Consciences Which Object

Why do people object to military service? Is it from cowardice, or common sense? Is it from a belief in some sort of principle or in God? The selections in this section, arranged in chronological order, suggest several answers to the question "Why?".

1. One line of argument against participation in war has been presented historically by the Quakers. The document which follows was composed by an offshoot of the Quakers, a group called the Shaking Quakers, or simply the Shakers. These people came to America just prior to the Revolution and settled in carefully designed and disciplined communities in Northern New York and New England. Their refusal to fight in the Revolution led many to suspect them of being pro-English, which they apparently were not. In the War of 1812 they and their brethren in the Northwest Territory were exempted from military service in return for three days' hard labor per person on the public highways.

Their petition to the New York legislature following the War of 1812 spells out the basis for their opposition to war.[2] Christians of other denominations frequently reason along the same lines, both then and now.

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[2] The Shakers of Watervliet, "The Memorial . . .," (Albany, 1816), 1-16.

> The Memorial of the Society of People . . . commonly called Shakers, to the Respectable Legislature of New York --
>
> We, the members of a religious society, associated upon the principles of duty to God, and peace and good will to man, feeling ourselves greatly oppressed and aggrieved by the operating of the present militia laws . . . respectfully submit to the consideration of this legislature, our sentences /thoughts/ on this important subject which so nearly affects our religious liberty, and rights of conscience.
>
> We consider the duty of conscience a matter of special concern between a man and his Maker; and in all free governments, it is acknowledged as a self-evident truth, that the liberty of conscience is an unalienable right; consequently, no human authority has a right to claim any jurisdiction over the conscience, either to control or interfere with its sacred requirements, or under any pretence whatever. . . . /C/ompulsion in matters of conscience is entirely contrary to those liberal principles, laid down by those venerable patriots of freedom, who formed and established the fundamental laws of our state and nation.
>
> According to these well known and generally acknowledged principles of liberty, we are persuaded that nothing more can be required, than a full proof of sincerity, to entitle any individual, or society of people, to the free enjoyment of any principle of conscience, which, in its nature, can do no moral injury to others.
>
> We therefore come forward with a confident reliance upon the liberal sentiments of this respectable body, to urge our conscientious objections to bearing arms, and to plead for an exemption from those acts which virtually operate against the free exercise and enjoyment of our rights. . . .
>
> /We/ believe it to be the indispensable duty of man strictly to obey the light of his own conscience, how much soever this light may lead him to differ from general opinion or practice. It is a well known truth, that, in all ages, the greatest portion of virtue has been found among a chosen few. . . .
>
> Until the appearance of Jesus Christ upon earth, we have no account that the lawfulness of war was ever called in question. But when Christ came, he taught, both by precept and example, to love our enemies, to render good for evil, and to do to others as we would that they should do to us. He declared that his kingdom was not of this world; but was a kingdom of peace; and therefore his immediate servants would not fight. . . . Agreeable to these principles, thousands have chosen rather to sacrifice all things, even life itself, than to bear arms, and shed human blood. And such as have maintained this character, have been acknowledged, even by their enemies, as the most honest and upright in their conduct of any class of men whatever.

These facts are too well known to be disputed, being confirmed by the history of all ages since the Christian era. Our faith is sincerely and firmly established upon these principles; and since it is supported by so ancient and respectable authority, is it not entitled to respect from the government of this enlightened state, although it may not accord with the opinions of the individuals who compose this government? . . .

God, in his all-wise providence, has put it into the hearts of the patriotic framers of our state and national constitutions to secure to the people of America those civil and religious rights of man which are the fundamental principles of the American government. The Declaration of Independence has asserted these truths to be self-evident: That liberty and the pursuit of happiness are unalienable rights; and that governments derive their just powers from the consent of the governed. The constitution of the United States declares, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The constitution of this state declares, "That the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall for ever hereafter be allowed within this state to all mankind."

Is it possible to find words more expressive of free and perfect liberty of consciences? Liberty and the pursuit of happiness are unalienable rights; any thing, then, of a coercive nature, under whatever name, practised against conscience, must be a pointed violation of these rights. Fines [for failure to serve in the militia], taxes [to outfit the militia], or imprisonments[3] imposed upon conscience, can be nothing less than an abridgment of these rights; then where is liberty and the pursuit of happiness? Can they be any thing more than an empty name? . . .

Signed by order, and in behalf of
the Society [by five trustees]

Watervliet, New York
Feb. 13, 1816

2. A Quaker wrote the following letter to another Quaker who had just decided to serve as a chaplain to the troops in the Union army:[4]

> [The author of the letter expresses opposition to the war and feels the person he is addressing is endorsing war by accepting a position in the army. He feels all war is contrary to the teaching of the church and that only "moral forces" should be used against the "cause of our difficulties."]

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[3] For failure to pay fines or taxes or to serve.

[4] Arthur and Lila Weinberg, In Place of Violence (Grossman, New York, 1964), 332-333.

3. In the next selection Eugene Victor Debs spells out the grounds for his opposition to war. Longtime leader of the workingman through various strikes and in the formation of the International Workers of the World, Debs was three times a candidate for the presidency of the United States, polling 900,000 votes on the Socialist ticket in 1912. Having made a speech charging that "the master class has always declared the wars; the subject class has always fought the battles," he was found guilty of violating the Espionage Act and sentenced to ten years in jail. Wilson, not having taken his criticism kindly refused him pardon. Harding later obliged. Here Debs addresses the court just prior to receiving his sentence.[5]

> /Debs declares his opposition to war and the "present social system." He contends that he is a patriot though he serves and loves men of all countries and as such is an internationalist. He feels that American institutions are on trial and that the "future will render the final verdict."/

4. A philosophy professor explained his unwillingness to serve in World War I:[6]

> /The professor explains that he refuses to be inducted on the basis of his opposition to America's role in World War I and on such basis he regards himself "a patriotic political objector, acting largely from public and social grounds" rather than pacifist, pro-German, religious or private grounds./

5. Evan Thomas, encountered in Section II as Prisoner No. 14822, had his sentence for refusal to serve in World War I commuted. Following his release from prison, he headed the War Resisters League, an organization which opposed conscription before World War II. Once again he was indicted for refusing to register for the draft, but this time charges were eventually dropped. With the experience of both wars in mind, he wrote the following in 1943:[7]

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[5] _Ibid._, 233-235.

[6] Norman Thomas, _Is Conscience a Crime_?, 23-25.

[7] Weinberg, _In Place of Violence_, 138-139.

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> /Thomas cites a concrete example of one objector who refused to be inducted on the basis of his religious sect's opposition to vaccination and contends that that person was not a genuine conscientious objector since he was not willing to investigate the facts and was simply appealing to the authority of some sect. He argues that a conscientious objector believes war is wrong on the basis of verifiable facts, such as suffering and death. Religion, he contends, has no monopoly on conscience, although the Selective Service Act limits conscience to religion./

6. Mulford Sibley, a professor of political science and an historian whose research uncovered some of the material included in Section II, states his convictions:[8]

> /Sibley contends that modern war and policies based on war threats cannot be morally defended and that nations that go to war for abstractions are basically the same. He argues that military might does not deter others from making war and that nations should establish a policy of non-violence which would necessitate a fundamental change in outlook." He argues that such non-violent policies are likely to "provoke retaliation of a non-violent character." _He further contends that such an expectation is not utopian./

C. The Meaning of Conscience, 1965

Recent discussion of the laws regarding objectors and of the objections of objectors was occasioned by a draftee who challenged our present exemption provision for objectors. The present law, called the Military Training and Service Act of 1951, uses the wording of the 1940 and 1948 statutes as stated in Part A of this section. As you read what follows, ask yourself how true each verdict is to the development of American history and, in your opinion, how just.

1. The facts of the case were outlined in the opinion delivered by Judge Kaufman.[9] It should be noted that the procedure followed by Seeger is standard for those who wish to appeal the classification given by the local board.

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[8] Mulford Sibley, ed., The Quiet Battle (Doubleday, Garden City, N.Y., 1963), 371-374.

[9] U.S. Court of Appeals, Second Circuit, 326 Federal Reporter, 2nd Series, 847-849.

As required by law [Mr. Daniel] Seeger registered with his local draft board upon attaining his eighteenth birthday in September of 1953. Apparently, his pacifist sympathies had not yet become fully developed, for in filling out his classification questionnaire, he ignored the claim for conscientious objector exemption, and simply indicated that he believed himself entitled to a student deferment. Initially classified I-A, Seeger subsequently received the 2-S deferment and remained in that classification until August, 1958, when he was once again reclassified as I-A.

On July 12, 1957 Seeger wrote to his local board, and for the first time revealed the conscientious objections to military service which were to lead to his refusal to submit to induction, and ultimately, to his conviction. . . .

The initial letter was itself not lengthy. "As a result of the resolution of a number of problems of conscience with which I have been preoccupied for the past months," Seeger wrote, "I am bound to declare myself unwilling to participate in any violent military conflict, or in activities made in preparation for such an undertaking. My decision arises from what I believe to be considerations of validity from the standpoint of the welfare of humanity and the preservation of the democratic values which we in the United States are struggling to maintain. I have concluded that war, from the practical standpoint, is futile and self-defeating and that from the more important moral standpoint it is unethical."

The nature and foundation of Seeger's objections were further illuminated in his response to the special form for conscientious objectors, prepared by the Selective Service System and forwarded to appellant by his local board. Although executing the claim for exemption from both combatant and non-combatant training and service, he significantly altered the wording of the printed form. Had he adopted the printed statement verbatim, Seeger would have declared that he was, "by reason of my religious training and belief, conscientiously opposed to participation in war in any form***" Seeger was willing to endorse this oath as his own, but only after putting quotation marks around the word "religious," and deleting the words "training and".

His reply to the first question on the form, which inquired into his belief in a Supreme Being, was ultimately to prove fatal to Seeger's claim. Refusing to assert a simple belief or disbelief in a deity, Seeger felt compelled to express his convictions in more extensive terms. In a statement attached to the questionnaire he explained his feeling that "the existence of God cannot be proven or disproven, and the essence of His nature cannot be determined. I prefer to admit this, and leave the question open rather than answer 'yes' or 'no'." Seeger was anxious to explain, however, that "skepticism or disbelief in the existence of God does not necessarily mean lack of faith in anything whatsoever. *** Such personages as Plato, Aristotle and Spinoza evolved comprehensive ethical systems of intellectual and moral integrity without belief in God, except in the remotest sense." Finally,

> rejecting dependence upon his Creator for a guide to morality, Seeger asserted "more respect for *** belief in and devotion to goodness and virtue for their own sakes, and a religious faith in a purely ethical creed."
>
> Seeger articulately attempted further to expound his ethical position to which he felt driven by his conscience. "It is our moral responsibility," he wrote, "to search for a way to maintain the recognition of the dignity and worth of the individual, the faith in reason, freedom, and individuality, and the opportunity to improve life for which democracy stands." In language which underscored the ethical foundation of his faith, he decried "the tremendous spiritual price that man pays for his willingness to resort to the mass destruction of human life to perpetrate his 'ideals.'" "I cannot," Seeger insisted, "participate in actions which betray the cause of freedom and humanity. Experience with the past indicates that our armament policy will lead to war, and war, with its indiscriminate crushing of human personality, cannot preserve moral values *** To resort to immoral means is not to preserve or vindicate moral values, but only to become collaborators in destroying all moral life among men."
>
> Unmoved by his appeal, the selective service board voted to retain Seeger's I-A classification, and ordered him to report for a pre-induction physical examination. When a personal appearance before the board failed to produce a different result, Seeger sought review by an Appeal Board which, in routine fashion, forwarded his file to the Department of Justice for an advisory opinion. The Department, in turn, requested the Federal Bureau of Investigation, as it does in all such cases, to investigate the accuracy and sincerity of Seeger's claims. And, as a result of this investigation, a highly favorable portrait of the appellant began to develop. . . .
>
> A resume of this [F. B. I.] investigation was forwarded to a Hearing Officer of the Department of Justice, and a hearing was conducted . . . [The report of] the Hearing Officer concluded by recommending that "the appeal of the registrant based upon grounds of conscientious objection be sustained."
>
> Despite this recommendation and the results of the FBI investigation, the Justice Department advised against allowing Seeger an exemption. . . . [I]ts decision rested entirely on its finding that Seeger's objections, however sincere, were not based upon a "belief in relation to a Supreme Being," as required by . . . the Act. Presumably for the same reason, the Appeal Board voted unanimously to retain Seeger's I-A classification. The Presidential Appeal Board affirmed, and Seeger was ordered to report for induction. Reporting as directed, and having been found acceptable for military service, Seeger refused to submit to induction and the present prosecution and conviction ensued.

2. The Justice Department, directed by law to hear the claims of applicants denied conscientious objector status by their local boards,

submitted the following report on its hearing with Seeger. In addition the Federal Bureau of Investigation interviewed the draftee's high school and college teachers and past employers, who reported favorably on Seeger's character. F. B. I. checks of police records in New York City and suburbs uncovered "no information concerning the registrant."

U. S. Department of Justice[10]
Washington, D. C.
Oct. 22, 1959

Chairman, Appeal Board
Eastern District of New York
Panel #2
Selective Service System
205 East 42 nd Street
New York 17, New York

Dear Sir:

Re: Daniel Andrew Seeger
Conscientious Objector

. . . The registrant was born September 3, 1935. His parents are members of the Roman Catholic Church and the registrant was brought up in that faith. He is not now affiliated with or a member in any particular religious denomination. The registrant graduated from the Bayside High School, Bayside, Queens, New York, on June 25, 1953. He ranked 35 in a class of 594. He was active in extra-curricular activities in that school, a member of an honorary society, and received the Pi Mu Epsilon award in mathematics. He attended the Cooper Union for the Advancement of Science and Arts from September 1953 to June 1954. He entered Queens College, Flushing, New York in September 1954 where he was still enrolled at the time of the inquiry. . . .

The registrant appeared before the Hearing Officer . . . accompanied by two witnesses, a professor of . . . Queens College . . . and a friend who was also a classmate of the registrant. The Hearing Officer reported that registrant answered questions in a willing and straight-forward manner and he stated that registrant is obviously a very intelligent young man, as evidenced by his scholastic record. The registrant told the Hearing Officer that he considered himself to be a 100% pacifist . . . [who] although . . . not in the habit of volunteering his views, . . . was neither ashamed of them nor reluctant to discuss them with anyone at any time. The registrant indicated that he was not affiliated with any of the sects to which many of the conscientious objectors belong but had strong sympathetic support for the Quaker movement. He also admitted sympathy with some of the views of Jehovah's Witnesses but criticized their dogmatic approach to the problem. He expressed the feeling that this is a personal problem and the individual himself must make up his own mind as to how he feels toward his fellow man. The registrant testified that he had been convinced after a thorough research and reading into history, particularly various religious trends, theories, and teachings, that peace throughout the world could only be accomplished by the laying down of arms by all.

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[10] Appellant's Brief and Appendix, U. S. Court of Appeals for the Second Circuit, 8a-16a.

The Hearing Officer queried the registrant about his willingness to serve with medical units of the armed services where he would not be required to carry or bear arms. The registrant expressed the feeling that this would only be "patching them up to put them back at firing again" and he stated that he would refuse to so serve [though he would have no objection]. . . to an assignment to civilian work contributing to the maintenance of the national health, safety, or interest unless such work is some way involved the manufacture, preparation, or sale of armaments or other implements of war. [Then] he would refuse to perform such service.

The registrant's friend who appeared as witness at the hearing and who has served with the armed forces . . . did not agree with registrant's views but believed them completely sincere and deeply engrained in Seeger's mind and personal approach to life. . . . The English Professor . . . although he did not agree with them . . . was convinced that registrant's beliefs were completely sincere. The Hearing Officer considered the Professor's statements reliable. The Hearing Officer reported that the registrant impressed him as a trustful, decent young citizen who conscientiously objects to joining in any manner any activity which would bear on military affairs. . . . He recommended that the appeal of the registrant based upon ground of conscientious objection be sustained. . . .

The requirement for exemption as a conscientious objector under [the law]. . . is that the claim be based on a person's "religious training and belief." The section defines religious training and belief as an individual's "belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code." Based upon the facts contained herein the Department of Justice concludes that the registrant has failed to make a claim within the meaning of [the law] . . . since, his objections are not based upon religious training and belief in relation to a Supreme Being, as defined in said Act. [Seeger had held that "The existence of God cannot be proved or disproven."]. . .

With due regard to the [contrary] determination of the Hearing Officer, the Department of Justice finds that the registrant's claim is not sustained and it recommends that it not be sustained by your Board. . . .

Sincerely,

T. Oscar Smith
Chief, Conscientious-Objector Section.

3. Upon being denied deferment by the Selective Service System, Seeger refused to submit to induction into the armed forces. The United States Government brought suit against him in the federal courts. The case was heard by Judge Levet of the District Court for the Southern District of New York, whose verdict read on April 24, 1963 was as follows:[11]

> . . . Defendant's contentions as to the unconstitutionality of the above-mentioned clause are as follows:
>
> 1. Congress . . . restricted . . . the concept of "Religious training and belief" so as to relate it only to a belief "in a relation to a Supreme Being."
>
> 2. Congress thus created a preference and an aid in favor of conscientious objectors who have a belief in a Supreme Being against those whose objection is related to or based upon some other type of religious training and belief or on a non-religious training and belief.
>
> 3. Congress has thus, in effect, established an official religion, a religion that is related to a belief in a Supreme Being . . . /thereby/ violating . . . the First Amendment. . . .
>
> /My finding is that/ Congress has not established a church or coerced religious belief, in violation of Amendment I. . . . Congress has not set up a state church, nor aided any religion, nor compelled attendance or non-attendance at any church. Neither has it compelled profession or refraining from profession of any belief or disbelief, nor imposed punishment for any conduct. . . .
>
> Congress, by Article I, Section 8, is given power to raise and support armies and to provide and maintain a navy. Therefore, Congress has power to raise armies, to determine who shall serve in such armies, and who shall be exempt, in time of peace and in time of war. Such powers are essential to national security. . . .
>
> Since the Congress has the right to determine who shall serve and who shall be exempt, it has the power to define the categories of those

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[11] 216 Federal Supplement, 516-522.

> who may be thus exempted. Therefore, exemption from military service is a matter of legislative grace and not a matter of right. . . .
>
> Congress is bound to raise armies . . . . It is within the power of Congress to enable reasonable classifications to achieve the ends sought. No religion is thereby established. No freedom of worship is invaded. No compulsive acts are required. . . . The section involved is constitutional. . . .
>
> The defendant is, therefore, held guilty. Sentence is set for Wednesday May 15, at 10:00 A. M. . . .

4. Upon being sentenced by the District Court, Seeger appealed his case to the United States Court of Appeals for the Second Circuit, where it was heard by three judges. Judge Kaufman delivered the following majority opinion on January 20, 1964, for himself and one other judge; the third judge dissented.[12]

> . . . The legislative background which underlies our present draft laws and their exemption for conscientious objectors /deserves review/. The Draft Act of 1917 afforded a statutory exemption only to those objectors affiliated with a "well-recognized religious sect or organization at present organized and existing and whose existing creed or principles forbid its members to participate in war in any form ***." During the height of World War I, the constitutionality of this narrow provision was tersely upheld against First Amendment challenges, despite its limitation to specific, organized and historic pacifist churches. . . .[13]
>
> The conscientious objector provisions of the 1940 Selective Service Act were far more broadly drafted. In this statute, in effect throughout the Second World War, an exemption from combatant training was afforded to any person "who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form." . . . In revising the conscientious objector provision for the Selective Service Act of 1948, Congress expressly approved the earlier, narrower definition of religion, and specifically required a "belief in relation to a Supreme Being" as a prerequisite for exemption. . . .[14]

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[12] U. S. Court of Appeals, Second Circuit, 326 Federal Reporter, 2nd Series, 847-849.

[13] He refers to the verdict printed in Section II, B. In that case the claim that the law established religion in violation of the First Amendment was rejected.

[14] The quotation is from the case of School District of Abington Township, Pa. v. Schemp (1963) in which Bible readings in public schools were found to establish religion in violation of the First Amendment.

We [of the Appeals Court] feel compelled to recognize that a requirement of belief in a Supreme Being, no matter how broadly defined, cannot embrace all those faiths which can validly claim to be called "religious." Thus it has been noted that, among other well-established religious sects, Buddhism, Taoism, Ethical Culture and Secular Humanism do not teach a belief in the existence of a Supreme Being. . . .

Indeed, our country has long prided itself on the enormous diversity of religious beliefs which have been able to find acceptance and toleration on these shores. In this regard, Mr. Justice Brennan has recently explained the development of judicial attitudes towards the First Amendment, by observing that "our religious composition makes us a vastly more diverse people than were our forefathers. They knew differences chiefly among Protestant sects. Today the Nation is far more heterogeneous religiously, including as it does substantial minorities not only of Catholics and Jews but as well of those who worship according to no version of the Bible and those who worship no God at all. . . . In the face of this vast conglomeration of differing ideas and ideals it is not surprising that no single concept may be found which is common to all.

. . . [T]oday, a pervading commitment to a moral ideal is for many the equivalent of what was historically considered the response to divine commands. . . . [F]or many in today's "skeptical generation," just as for Daniel Seeger, the stern and moral voice of conscience occupies that hallowed place in the hearts and minds of men which was traditionally reserved for the commandments of God. . . . When . . . Seeger insists that he is obeying the dictates of his conscience or the imperatives of an absolute morality, [he is comparable to] the objector who defers to the will of a supernatural power. . . .

While we are, therefore, most reluctant to find that Congress, in a sincere attempt to balance the personal rights of a minority with the insistent demands of our national security, has transgressed the limits imposed by the Constitution, we are compelled so to hold. This is not to deprecate the enormity of the congressional burden; we fully appreciate the duty and powers of Congress to ensure peace and stability in these unstable times by recruiting citizens for the armed forces. We further recognize the concern for personal liberties and religious freedom which led to the enactment of the conscientious objector exemption in the face of the periods which confront us throughout the world. At the same time, however, we cannot conclude that specific religious concepts, even if shared by the overwhelming majority of the country's organized religions, may be selected so as to discriminate against the holders of equally sincere religious beliefs. . . .

We are convinced that the believer in a Supreme Being is not for that reason alone more entitled to have his conscience respected by a draft board than is Daniel Seeger. . . .

> [In an earlier case,[15]] the Supreme Court acknowledged that "[W]e are a religious people whose institutions presuppose a Supreme Being." Our disposition of this [Seeger's] appeal is in keeping with this declaration. It has often been noted that the principle distinction between the free world and the Marxist nations is traceable to democracy's concern for the rights of the individual citizen, as opposed to the collective mass of society. And this dedication to the freedom of the individual, of which our Bill of Rights is the most eloquent expression, is in large measure the result of the nation's religious heritage. Indeed, we here respect the right of Daniel Seeger to believe what he will largely because of the conviction that every individual is a child of God; and that Man, created in the image of his Maker, is endowed for that reason with human dignity.
>
> Judgment [of the District Court] reversed.

5. Given the outcome of the case in the Court of Appeals, it was the government's turn to appeal the verdict, which it did. Associate Justice Clark read the Supreme Court's decision on March 8, 1965.[16]

> . . . The task of discerning the intent of Congress in using the phrase "Supreme Being" . . . is [not] made the easier by the richness and variety of spiritual life in our country. Over 250 sects inhabit our land. Some believe in a purely personal God, some in a supernatural deity; others think of religion as a way of life envisioning as its ultimate goal the day when all men can live together in perfect understanding and peace. There are those who think of God as the depth of our being; others, such as the Buddhists, strive for a state of lasting rest through self-denial and inner purification; in Hindu philosophy, the Supreme Being is the transcendental reality which is truth, knowledge and bliss. . . . This vast panoply of beliefs reveals the magnitude of the problem which faced the Congress when it set about providing an exemption from armed service. . . . which would be in keeping with its long-established policy of not picking and choosing among religious beliefs. . . .
>
> Under the 1940 Act it was necessary only to have a conviction based upon religious training and belief; we believe that is all that is required here. . . . Within that phrase [religious training and belief] would come all sincere religious beliefs which are based upon a power or being, or upon a faith, to which all else is subordinate or upon which all else is ultimately dependent. The test might be stated in these words: A sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of those admittedly qualifying for the exemption. . . .

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[15] The case was Zorach v. Clauson (1953), in which the releasing of children from public schools during the day for religious instruction in a private building at private expense was found not to establish religion in violation of the First Amendment.

[16] Seeger v. U. S., 85 S. Ct., 850.

In the light of [Seeger's] beliefs and the unquestioned sincerity with which he held them, we think the [Draft] Board, had it applied the test we propose today, would have granted him the exemption. We think it clear that the beliefs which prompted his objection occupy the same place in his life as the belief in a traditional deity holds in the lives of his friends, the Quakers.

We therefore affirm the judgment [of the Circuit Court].